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and referred to the committee on:

Science & Technology

Betty Manning
Chief Clerk of the House

FILED MAR 6 1989

HOUSE OF REPRESENTATIVES

By

[Signature]

[Signature] B. No. 1860

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of bonds and for state financing of the
development and production of Texas products and businesses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Q, Chapter 481, Government Code, as
added by S.B. 223, Acts of the 71st Legislature, Regular Session,
1989, is amended by adding Sections 481.226 and 481.227 to read as
follows:

Sec. 481.226. BONDS. (a) The board may issue up to \$25
million of general obligation bonds and may use the proceeds of the
bonds to provide venture financing under this subchapter. The
board shall deposit the proceeds of the bonds in the Texas product
development fund and apply them in accordance with the resolution
authorizing the bonds. The Texas product development fund and any
accounts established in the fund shall be held in trust by the
state treasurer for and on behalf of the department and the owners
of the general obligation bonds issued in accordance with this
section, and may be used only as provided by this section. Pending
use, the treasurer may invest and reinvest money in the product
development fund in investments authorized by law for state funds
that the treasurer, consistent with the board's resolutions
authorizing the bonds, considers appropriate. Repayments of
financial assistance provided under this subchapter, together with
earnings received on investments of the product development fund,

1 shall be deposited, first, in the interest and sinking account as
2 prescribed by the board's resolutions authorizing bonds under this
3 subchapter, and, second, in any reserve account established by the
4 board until that account is fully funded as prescribed by the
5 board's resolutions. If, during the time any general obligation
6 bonds are payable from the interest and sinking account, the board
7 determines that there will not be sufficient money in the interest
8 and sinking account during the following fiscal year to pay the
9 principal of or interest on the general obligation bonds or both
10 the principal and interest that are to come due during the
11 following fiscal year, the comptroller of public accounts shall
12 transfer to the fund the first money coming into the state treasury
13 not otherwise appropriated by the constitution in an amount
14 sufficient to pay the obligations.

15 (b) The bonds may be issued from time to time in one or more
16 series or issues, in bearer, registered, or any other form, which
17 may include registered uncertificated obligations not represented
18 by written instruments and commonly known as book-entry
19 obligations, the registration of ownership and transfer of which
20 shall be provided for by the board under a system of books and
21 records maintained by the department or by an agent appointed by
22 the board in a resolution providing for issuance of its bonds.
23 Bonds may mature serially or otherwise not more than 40 years from
24 their date. Bonds may bear no interest or may bear interest at any
25 rate or rates, fixed, variable, floating, or otherwise, determined
26 by the board or determined pursuant to any contractual arrangements
27 approved by the board, not to exceed the maximum net effective

1 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
2 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
3 Statutes). Interest on the bonds may be payable at any time and
4 the rate of interest on the bonds may be adjusted at any time
5 determined by the board pursuant to the resolutions authorizing the
6 bonds or determined pursuant to any contractual arrangement
7 approved by the board. In connection with the issuance of its
8 bonds, the board may exercise the powers granted to the governing
9 body of an issuer in connection with the issuance of obligations
10 under Chapter 656, Acts of the 68th Legislature, Regular Session,
11 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent
12 not inconsistent with this section. The bonds may be issued in the
13 form and denominations and executed in the manner and under the
14 terms, conditions, and details determined by the board in the
15 resolution authorizing their issuance. If any officer whose manual
16 or facsimile signature appears on the bonds ceases to be an
17 officer, the signature remains valid and sufficient for all
18 purposes as if the officer had remained in office.

19 (c) All bonds issued by the board under this section are
20 subject to review and approval by the attorney general in the same
21 manner and with the same effect as is provided by Chapter 656, Acts
22 of the 68th Legislature, Regular Session, 1983 (Article 717q,
23 Vernon's Texas Civil Statutes).

24 (d) The bonds are a legal and authorized investment for a
25 bank, trust company, savings and loan association, insurance
26 company, fiduciary, trustee, or guardian or a sinking fund of a
27 municipality, county, school district, or political subdivision of

1 the state. The bonds may secure deposits of public funds of the
2 state, a municipality, a county, a school district, or another
3 political corporation or subdivision of the state. The board may
4 issue bonds to refund all or part of its outstanding bonds,
5 including accrued but unpaid interest. The bonds, a transaction
6 relating to the bonds, or a profit made in the sale of the bonds is
7 exempt from taxation by the state, an agency or subdivision of the
8 state, a municipality, or a special district.

9 Sec. 481.227. CONSIDERATIONS IN FINANCING. In determining
10 whether to provide financing under this subchapter, the board shall
11 consider the likelihood of success of the applicant and the effect
12 of the financing on job creation and retention in the state. The
13 board shall give preference to applicants who are Texas residents
14 doing business in the state, and then to applicants who can
15 demonstrate that the financed activities will take place
16 predominantly in this state.

17 SECTION 2. Section 481.222, Government Code, as added by
18 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
19 amended by adding Subsection (d) to read as follows:

20 (d) The department may receive, and shall deposit in the
21 Texas product development fund, appropriations, grants, donations,
22 earned federal funds, and the proceeds of any investment pools
23 operated by the treasurer. The Texas product development fund
24 shall operate as a revolving fund the contents of which may be
25 applied and reapplied to the purposes of this subchapter, subject
26 to the requirements of Section 481.226(a).

27 SECTION 3. Subchapter R, Chapter 481, Government Code, as

1 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
2 1989, is amended by adding Sections 481.244 and 481.245 to read as
3 follows:

4 Sec. 481.244. BONDS. (a) The board may issue up to \$20
5 million of general obligation bonds and may use the proceeds, less
6 the costs of issuance of the bonds, to carry out the small business
7 incubator program in accordance with the resolution authorizing the
8 bonds. The board shall deposit the proceeds of the bonds in the
9 small business incubator fund and apply them in accordance with the
10 resolution authorizing the bonds. Not more than \$10 million of the
11 bond proceeds may be used for challenge grants. The small
12 business incubator fund and any accounts established in the fund
13 shall be held in trust by the state treasurer for and on behalf of
14 the department and the owners of the general obligation bonds
15 issued in accordance with this section, and may be used only as
16 provided by this subchapter. Pending use, the treasurer may invest
17 and reinvest money in the small business incubator fund in
18 investments authorized by law for state funds that the treasurer,
19 consistent with the board's resolutions authorizing the bonds,
20 considers appropriate. Repayments of financial assistance provided
21 under this subchapter, together with earnings received on
22 investments of the small business incubator fund, shall be
23 deposited, first, in the interest and sinking account as prescribed
24 by the board's resolutions authorizing bonds under this article,
25 and, second, in any reserve account established by the board until
26 that account is fully funded as prescribed by the board's
27 resolutions. If, during the time any general obligation bonds are

1 payable from the interest and sinking account, the board determines
2 that there will not be sufficient money in the interest and sinking
3 account during the following fiscal year to pay the principal of or
4 interest on the general obligation bonds or both the principal and
5 interest that are to come due during the following fiscal year, the
6 comptroller of public accounts shall transfer to the fund the first
7 money coming into the state treasury not otherwise appropriated by
8 the constitution in an amount sufficient to pay the obligations.

9 (b) The bonds may be issued from time to time in one or more
10 series or issues, in bearer, registered, or any other form, which
11 may include registered uncertificated obligations not represented
12 by written instruments and commonly known as book-entry
13 obligations, the registration of ownership and transfer of which
14 shall be provided for by the board under a system of books and
15 records maintained by the department or by an agent appointed by
16 the board in a resolution providing for issuance of its bonds.
17 Bonds may mature serially or otherwise not more than 40 years from
18 their date. Bonds may bear no interest or may bear interest at any
19 rate or rates, fixed, variable, floating, or otherwise, determined
20 by the board or determined pursuant to any contractual arrangements
21 approved by the board, not to exceed the maximum net effective
22 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
23 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
24 Statutes). Interest on the bonds may be payable at any time and
25 the rate of interest on the bonds may be adjusted at any time
26 determined by the board pursuant to the resolutions authorizing the
27 bonds or determined pursuant to any contractual arrangement

1 approved by the board. In connection with the issuance of its
2 bonds, the board may exercise the powers granted to the governing
3 body of an issuer in connection with the issuance of obligations
4 under Chapter 656, Acts of the 68th Legislature, Regular Session,
5 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent
6 not inconsistent with this section. The bonds may be issued in the
7 form and denominations and executed in the manner and under the
8 terms, conditions, and details determined by the board in the
9 resolution authorizing their issuance. If any officer whose manual
10 or facsimile signature appears on the bonds ceases to be an
11 officer, the signature remains valid and sufficient for all
12 purposes as if the officer had remained in office.

13 (c) All bonds issued by the board under this section are
14 subject to review and approval by the attorney general in the same
15 manner and with the same effect as is provided by Chapter 656, Acts
16 of the 68th Legislature, Regular Session, 1983 (Article 717q,
17 Vernon's Texas Civil Statutes).

18 (d) The bonds are a legal and authorized investment for a
19 bank, trust company, savings and loan association, insurance
20 company, fiduciary, trustee, or guardian or a sinking fund of a
21 municipality, county, school district, or political subdivision of
22 the state. The bonds may secure deposits of public funds of the
23 state, a municipality, a county, a school district, or another
24 political corporation or subdivision of the state. The department
25 may issue bonds to refund all or part of its outstanding bonds,
26 including accrued but unpaid interest. The bonds, a transaction
27 relating to the bonds, or a profit made in the sale of the bonds is

1 exempt from taxation by the state, an agency or subdivision of the
2 state, a municipality, or a special district.

3 Sec. 481.245. CONSIDERATIONS IN FINANCING. In determining
4 whether to provide financing under this subchapter, the board shall
5 consider the likelihood of success of the applicant and the effect
6 of the financing on job creation and retention in the state. The
7 board shall give preference to applicants who are Texas residents
8 doing business in the state, and then to applicants who can
9 demonstrate that the financed activities will take place
10 predominantly in this state.

11 SECTION 4. Section 481.242, Government Code, as added by
12 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
13 amended by adding Subsection (c) to read as follows:

14 (c) The department may receive, and shall deposit in the
15 small business incubator fund, appropriations, grants, donations,
16 earned federal funds, and the proceeds of any investment pools
17 operated by the treasurer.

18 SECTION 5. Chapter 58, Agriculture Code, is amended by
19 adding Subchapter D to read as follows:

20 SUBCHAPTER D. BONDS

21 Sec. 58.031. ISSUANCE OF GENERAL OBLIGATION BONDS. (a) The
22 board by resolution may provide for the issuance of up to \$25
23 million of general obligation bonds as authorized by the Texas
24 Constitution. The bonds shall be on a parity. The authority may
25 issue bonds in one or several installments. Before authorizing the
26 issuance of any general obligation bonds, the board must find that
27 the issuance of revenue bonds was not an economically advisable

1 alternative for carrying out this chapter.

2 (b) Proceeds of the bonds shall be deposited in the Texas
3 agricultural fund and applied in accordance with the resolution
4 authorizing the bonds:

5 (1) to provide financial assistance to eligible
6 agricultural businesses;

7 (2) to pay costs of issuance of those bonds and the
8 administration of any financial assistance program established with
9 money in the Texas agricultural fund; and

10 (3) together with any other available funds, to pay
11 the principal of or interest on or to discharge or redeem, in whole
12 or in part, any outstanding bonds issued by the authority.

13 Sec. 58.032. TEXAS AGRICULTURAL FUND. (a) The Texas
14 agricultural fund is a fund in the state treasury.

15 (b) The Texas agricultural fund may, at the direction of the
16 board, receive from the state or federal government or from any
17 other person, money that is to be administered by the authority in
18 connection with the provision of financial assistance to eligible
19 agricultural businesses under any program funded in whole or in
20 part with the proceeds of general obligation bonds issued to carry
21 out the purpose of this chapter.

22 (c) The board may provide for the establishment and
23 maintenance of separate accounts within the Texas agricultural
24 fund, including program accounts as prescribed by the board, an
25 interest and sinking account, a reserve account, and other accounts
26 provided for by the board in its resolutions. Repayments of
27 financial assistance under any program funded in whole or in part

1 with the proceeds of any series of general obligation bonds shall
2 be deposited first in the interest and sinking account as
3 prescribed by the board's resolutions authorizing such series of
4 general obligation bonds, and second in the reserve account in
5 respect of such series of general obligation bonds until that
6 account is fully funded as prescribed by the board's resolutions.
7 The fund and all accounts within it shall be kept and maintained at
8 the direction of the board and held in trust by the state treasurer
9 for and on behalf of the authority and the owners of the general
10 obligation bonds issued in accordance with this chapter, and may be
11 used only as provided by this chapter. Pending its use, money in
12 the fund shall be invested as prescribed by the resolution by which
13 the bonds were issued.

14 (d) To the extent the board determines that any money
15 credited to the Texas agricultural fund from repayments of
16 financial assistance is not required by Subsection (c) of this
17 section and the resolutions of the board to be held in the interest
18 and sinking account or reserve account to provide for the payment
19 of the principal of and interest on the outstanding general
20 obligation bonds issued by the authority, that money may be used by
21 the authority to pay the principal of and interest on revenue bonds
22 issued by the authority or for any other authorized purpose of the
23 authority, in accordance with this chapter and the authority's
24 resolutions authorizing general obligation bonds.

25 (e) If during the existence of the Texas agricultural fund
26 or during the time any general obligation bonds are payable from
27 the fund the board determines that there will not be sufficient

1 money in the interest and sinking account during the following
2 fiscal year to pay the principal of or interest on the general
3 obligation bonds or both the principal and interest that are to
4 come due during the following fiscal year, the comptroller of
5 public accounts shall transfer to the fund the first money coming
6 into the state treasury not otherwise appropriated by the
7 constitution in an amount sufficient to pay the obligations.

8 (f) The department may receive, and shall deposit in the
9 Texas agricultural fund, appropriations, grants, donations, earned
10 federal funds, and the proceeds of any investment pools operated by
11 the treasurer. The Texas product development fund shall operate as
12 a revolving fund the contents of which may be applied and reapplied
13 to the purposes of this chapter.

14 Sec. 58.033. ISSUANCE OF REVENUE BONDS. (a) In addition to
15 the authority to issue general obligation bonds, the authority may
16 issue not more than \$500 million of revenue bonds for the purpose
17 of providing money to carry out any purpose of the authority under
18 this chapter. The authority shall establish and maintain funds and
19 accounts, in accordance with Subsection (d) of this section, that
20 the board considers necessary to ensure payment of the bonds and to
21 provide for the use of the bond proceeds and the implementation of
22 the program financed. Proceeds of revenue bonds shall be applied
23 in accordance with the resolution authorizing those bonds:

24 (1) to provide financial assistance to eligible
25 agricultural businesses;

26 (2) to pay costs of issuance of those bonds and the
27 administration of any financial assistance program established by

1 the authority; and

2 (3) together with any other available funds, to pay
3 the principal of or interest on or to discharge or redeem, in whole
4 or in part, any outstanding bonds issued by the authority.

5 (b) The authority's revenue bonds are obligations solely of
6 the authority and are payable solely from funds of the authority
7 that are pledged to the repayment of the revenue bonds. The
8 authority may not use, except as provided in Section 58.032, or
9 pledge money in the Texas agricultural fund to repayment of its
10 revenue bonds. The authority's bonds are not and do not create or
11 constitute a pledge, giving, or lending of the faith or credit or
12 taxing power of the state. Each bond of the authority issued under
13 this section must contain a statement to the effect that the state
14 is not obligated to pay the principal of or any premium or interest
15 on the bond, and that neither the faith or credit nor the taxing
16 power of the state is pledged, given, or loaned to such a payment.

17 (c) Revenue bonds of the authority shall be payable as to
18 principal, interest, and redemption premium, if any, from and
19 secured by a first lien or a subordinate lien on and pledge of all
20 or any part of the property, revenues, income, or other resources
21 of the authority, as specified in the board's resolution
22 authorizing issuance of those bonds, including mortgages or other
23 interests in property financed, with the proceeds of such bonds,
24 repayments of financial assistance, earnings from investments or
25 deposits of the funds of the authority, fees, charges, and any
26 other amounts or payments received pursuant to this chapter, and
27 any appropriations, grants, allocations, subsidies, supplements,

1 guaranties, aid, contribution, or donations from the state or
2 federal government or any other person.

3 (d) The board may make additional covenants with respect to
4 the bonds and the pledged revenues and may provide for the flow of
5 funds, the establishment and maintenance and investment of funds,
6 which may include interest and sinking funds, reserve funds,
7 program funds, and other funds. Those funds shall be kept and
8 maintained in escrow and in trust by the state treasurer for and on
9 behalf of the authority and the owners of its revenue bonds, in
10 funds held outside the treasury pursuant to Section 3.051, Treasury
11 Act (Article 4393-1, Vernon's Texas Civil Statutes). Those funds
12 shall be used only as provided by this chapter, and pending their
13 use shall be invested as provided by any resolution of the
14 authority. Legal title to those funds shall be in the authority
15 unless or until paid out as provided by this chapter or by the
16 resolutions authorizing the authority's bonds. The state
17 treasurer, as custodian, shall administer those funds strictly and
18 only as provided by this chapter and in those resolutions. The
19 treasurer shall invest the funds in investments authorized by law
20 for state funds. The state shall take no action with respect to
21 those funds other than that specified in this chapter and in those
22 resolutions.

23 (e) The board may provide in the resolution authorizing any
24 revenue bonds for the issuance of additional bonds to be equally
25 and ratably secured by lien on the revenues and receipts, or for
26 the issuance of subordinate lien bonds.

27 Sec. 58.034. GENERAL PROVISIONS RELATING TO BONDS. (a) The

1 authority's bonds may be issued from time to time in one or more
2 series or issues, in bearer, registered, or any other form, which
3 may include registered uncertified obligations not represented by
4 written instruments and commonly known as book-entry obligations,
5 the registration of ownership and transfer of which shall be
6 provided for by the authority under a system of books and records
7 maintained by the authority or by an agent appointed by the
8 authority in resolution providing for issuance of its bonds. Bonds
9 may mature serially or otherwise not more than 40 years from their
10 date. Bonds may bear no interest or may bear interest at any rate
11 or rates, fixed, variable, floating, or otherwise, determined by
12 the board or determined pursuant to any contractual arrangements
13 approved by the board, not to exceed the maximum net effective
14 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
15 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
16 Statutes). Interest on the bonds may be payable at any time, and
17 the rate of interest on the bonds may be adjusted at such time as
18 may be determined by the board or as may be determined pursuant to
19 any contractual arrangement approved by the board. In connection
20 with the issuance of its bonds, the board may exercise the powers
21 granted to the governing body of an issuer in connection with the
22 issuance of obligations under Chapter 656, Acts of the 68th
23 Legislature, Regular Session, 1983 (Article 717g, Vernon's Texas
24 Civil Statutes), to the extent not inconsistent with this chapter.

25 (b) The bonds issued under this chapter and interest
26 coupons, if any, are investment securities under the terms of
27 Chapter 8, Business & Commerce Code. The bonds are exempt

1 securities under The Securities Act (Article 581-1 et seq.,
2 Vernon's Texas Civil Statutes), and unless specifically provided
3 otherwise, under any subsequently enacted securities act. Any
4 contract, guaranty, or any other document executed in connection
5 with the issuance of bonds pursuant to this chapter is not a
6 security under The Securities Act (Article 581-1 et seq., Vernon's
7 Texas Civil Statutes), and, unless specifically provided otherwise,
8 any subsequently enacted securities act. The board is authorized
9 to do all things necessary to qualify the bonds for offer and sale
10 under the securities laws and regulations of the United States and
11 of the states and other jurisdictions in the United States as the
12 board shall determine.

13 (c) The bonds may be issued in the form and denominations
14 and executed in the manner and under the terms, conditions, and
15 details determined as provided by the board in the resolution
16 authorizing their issuance. If any officer whose manual or
17 facsimile signature appears on the bonds ceases to be an officer,
18 the signature is still valid and sufficient for all purposes as if
19 the officer had remained in office.

20 (d) All bonds issued by the authority are subject to review
21 and approval by the attorney general in the same manner and with
22 the same effect as is provided by Chapter 656, Acts of the 68th
23 Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas
24 Civil Statutes).

25 (e) No fee may be charged by any other agency of this state
26 in connection with the issuance of the bonds or the allocation of a
27 portion of the state volume limitation on private activity bonds

1 either under executive order or legislative enactment. No
2 proceeding, notice, or approval is required for the issuance of any
3 bonds or any instrument as security except as provided by this Act.
4 Nothing in this subsection may be constituted to deprive the state
5 and its governmental subdivisions of their respective police powers
6 or to impair any police power of any official or agency of the
7 state or its subdivisions as may be provided by law.

8 (f) The state pledges to and agrees with the owners of any
9 bonds issued in accordance with this chapter that the state will
10 not limit or alter the rights vested in the authority to fulfill
11 the terms of any agreements made with the owners of the bonds or in
12 any way impair the rights and remedies of those owners until those
13 bonds, together with any premium and the interest on the bonds and
14 all costs and expenses in connection with any action or proceeding
15 by or on behalf of those owners, are fully met and discharged. The
16 authority is authorized to include this pledge and agreement of the
17 state in any agreement with the owners of those bonds.

18 (g) The bonds may be sold at public or private sale with or
19 without public bidding in the manner, at such rate or rates, price
20 or prices, and on such terms as may be determined by the board or
21 determined as provided in any contractual arrangement approved by
22 the board. The board also may enter into any contractual
23 arrangement under which the bonds are to be sold from time to time,
24 or subject to purchase, at such prices and rates, interest rate or
25 payment periods, and terms as determined pursuant to that
26 contractual arrangement approved by the board.

27 (h) Pending the preparation of definitive bonds, interim

1 receipts or certificates in the form and with the provisions that
2 are provided in the resolution may be issued to the purchaser or
3 purchasers of bonds sold under this chapter.

4 (i) The board may provide procedures for the replacement of
5 a mutilated, lost, stolen, or destroyed bond or interest coupon.

6 (j) The resolutions of the board issuing bonds may contain
7 other provisions and covenants as the board may determine.

8 (k) The board may adopt and have executed any other
9 proceedings or instruments necessary and convenient in the issuance
10 of bonds.

11 (l) The authority may not issue bonds after August 31, 1993.

12 Sec. 58.035. REFUNDING BONDS. The authority may issue,
13 sell, and deliver bonds to refund all or any part of its
14 outstanding bonds, including the payment of any redemption premium
15 and interest accrued, under such terms, conditions, and details as
16 determined by the board. Bonds issued by the authority may be
17 refunded in the manner provided by any other applicable statute,
18 including Chapter 503, Acts of the 54th Legislature, Regular
19 Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), and
20 Chapter 784, Acts of the 61st Legislature, Regular Session, 1969
21 (Article 717k-3, Vernon's Texas Civil Statutes). Bonds, the
22 provision for the payment of all interest and applicable premiums
23 on which and the principal of which has been made through the
24 irrevocable deposit of money with the treasurer in accordance with
25 the provisions of such an applicable statute, shall no longer be
26 charged against the issuing authority of the authority, and on the
27 making of such provision such issuing authority shall, to the

1 extent of the principal amount of such bonds, be restored.

2 Sec. 58.036. PAYMENT ENFORCEABLE BY MANDAMUS. Payment of
3 the bonds and performance by the authority or the commissioner of
4 its or his functions and duties under this chapter and the Texas
5 Constitution may be enforced in the state supreme court by mandamus
6 or other appropriate proceeding.

7 Sec. 58.037. BONDS AS INVESTMENTS. (a) The bonds are legal
8 and authorized investments for:

9 (1) banks;
10 (2) trust companies;
11 (3) savings and loan associations;
12 (4) insurance companies of all kinds and types;
13 (5) fiduciaries;
14 (6) trustees;
15 (7) guardians; and
16 (8) sinking and other public funds of the state,
17 municipalities, counties, school districts, and other political
18 subdivisions of the state.

19 (b) The bonds are eligible to secure the deposit of any
20 public funds of the state, municipalities, counties, school
21 districts, or other political subdivisions of the state, and the
22 bonds shall be lawful and sufficient security for the deposits to
23 the extent of their face value when accompanied by all unmatured
24 coupons attached to the bonds.

25 Sec. 58.038. TAX STATUS OF BONDS. The bonds issued by the
26 authority, any transaction relating to the bonds, and any profits
27 made in the sale of the bonds are free from taxation by the state

1 or by any city, county, special district, or other political
2 subdivision of the state; provided that this section does not
3 exempt the owner of any property financed under this chapter from
4 any ad valorem, sales, use, excise, or other tax levied by the
5 state or any political corporation of this state.

6 Sec. 58.039. REVIEW. Bonds may not be issued under this
7 chapter, and proceeds of bonds under this chapter may not be used
8 to finance a program unless the issuance of program, as applicable,
9 has been reviewed and approved by the review board.

10 Sec. 58.040. CONSIDERATIONS IN FINANCING. In determining
11 whether to provide financing under this chapter, the board shall
12 consider the likelihood of success of the applicant and the effect
13 of the financing on job creation and retention in the state. The
14 board shall give preference to applicants who are Texas residents
15 doing business in the state, and then to applicants who can
16 demonstrate that the financed activities will take place
17 predominantly in this state.

18 SECTION 6. This Act is contingent on the adoption of the
19 constitutional amendment proposed by __.J.R. ____, Acts of the 71st
20 Legislature, Regular Session, 1989. If that proposed
21 constitutional amendment is not approved by the voters, this Act
22 has no effect.

23 SECTION 7. The importance of this legislation and the
24 crowded condition of the calendars in both houses create an
25 emergency and an imperative public necessity that the
26 constitutional rule requiring bills to be read on three several
27 days in each house be suspended, and this rule is hereby suspended.

HOUSE COMMITTEE REPORT

1st Printing

By Colbert

H.B. No. 1860

Substitute the following for H.B. No. 1860:

By Cuellar of Webb

C.S.H.B. No. 1860

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Q Section 481.221 of the Government Code as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.221. DEFINITIONS. In this subchapter:

(1) "Advisory board" means the Product Development Advisory Board.

(2) [1] "Executive director" means the executive director of the department or the executive director's designee.

(3) "Fund" means the product development fund.

(4) "Office" means the Office of Advanced Technology within the Texas Department of Commerce:

(5) [2] "Product" means an invention, product, device, technique, or process, without regard to whether a patent has or could be granted, that is or may be exploitable commercially; the term does not refer to pure research but includes products, devices, techniques, or processes that have advanced beyond the theoretical stage and have or are readily capable of having a commercial application.

(6) [3] "Venture financing" means revolving loans, loan guarantees, or equity investment from the Texas product

1 development fund to a person for use in the development of new or
2 improved products.

3 SECTION 2. Subchapter Q Section 481.222 of the Government
4 Code as added by S.B. 223, Acts of the 71st Legislature, Regular
5 Session, 1989, is amended to read as follows:

6 Sec. 481.222. TEXAS PRODUCT DEVELOPMENT FUND; VENTURE
7 FINANCING. (a) The Texas product development fund is a revolving
8 fund in the state treasury. The fund consists of money
9 appropriated to the Department, proceeds of bonds issued under this
10 [article] subchapter, application fees, loan repayments, guarantee
11 fees, royalty receipts, dividend income, and other amounts received
12 by the state from loans, loan guarantees, and equity investments
13 made under this subchapter, other amounts received by the state for
14 loans or grants made under this subchapter and money acquired from
15 federal grants or other sources and required by resolution of the
16 board to be deposited in the fund. The fund contains a program
17 account, an interest and sinking account, and other accounts that
18 the board authorizes to be created and maintained. Money in the
19 fund is available for use by the department under this [article]
20 subchapter.

21 (b) Money in the program account, minus the costs of
22 issuance of bonds under this [article] subchapter and necessary
23 costs of administering the fund, may be used only to provide
24 venture financing to aid in the development and for the
25 commercialization of new or improved products. The department may
26 provide venture financing from the fund for the purposes of
27 designing and constructing new facilities, rehabilitating existing

1 facilities, acquiring any interest in real or personal property,
 2 and providing initial working capital to pay the cost of salaries,
 3 rent, supplies, inventory, mortgage payments, legal services,
 4 utilities, telephone, travel, and other incidental costs normally
 5 classified as working capital according to standard accounting
 6 principles. The department shall provide venture financing from
 7 the fund on the terms and conditions that the department determines
 8 to be reasonable, appropriate, and consistent with the purposes and
 9 objectives of the fund and this ~~[article]~~ subchapter for the
 10 purpose of financing a new or improved product that is or may be
 11 exploitable commercially. The department may provide venture
 12 financing only if financing for the product is not otherwise
 13 available on reasonable terms.

14 (c) Before approving the provisions of venture financing to
 15 any person, the department shall enter into an agreement with the
 16 person under which the department will obtain an appropriate
 17 portion of royalties, patent rights, equitable interests, or a
 18 combination of these royalties, rights, and interests, from or in
 19 the product or proceeds of the product for which venture financing
 20 is requested. Contracts executed under this ~~[article]~~ subchapter
 21 must include agreements to ensure proper use of funds and the
 22 receipt of royalties, patent rights, or equity interest, as
 23 appropriate.

24 SECTION 3. Subchapter Q Section 481.224 of the Government
 25 Code as added by S.B. 223, Acts of the 71st Legislature, Regular
 26 Session, 1989, is amended to read as follows:

27 Sec. 481.224 APPLICATION (a) An application for venture

1 financing must be delivered, together with a reasonable application
2 fee prescribed by the department, to the executive director. [~~who~~
3 ~~shall--conduct-an-investigation-and-prepare-a-report-concerning-the~~
4 ~~advisability-of-approving--the--application--and--concerning--other~~
5 ~~factors--considered--relevant--by--the--department----~~~~The-executive~~
6 ~~director's-report-must-include~~] The application shall contain a
7 business plan, containing such information as required by the
8 department, including at a minimum:

9 (1) information regarding the history and financial
10 condition of the applicant, including the applicant's income
11 statement, information about the applicant's present markets and
12 market prospects and about the integrity of the applicant's
13 management; [and]

14 (2) a statement of the feasibility of the product for
15 which financing is requested, including the state of development of
16 the product and the likelihood of its commercialization[-]; and

17 (3) a description of attempts to obtain private
18 financing, including documentation verifying such efforts and a
19 clear description of the reasons such financing was denied.

20 (b) The executive director shall determine the following
21 with respect to each application for venture financing:

22 (1) whether the product for which financing is
23 requested is economically sound, and whether there is a reasonable
24 expectation that the product will be successful;

25 (2) whether the product will create or preserve jobs
26 and otherwise benefit the economy of the state;

27 (3) whether the applicant lacks the financial

1 resources to complete the project, and whether venture financing is
2 necessary because financing is unavailable in traditional capital
3 markets or credit has been offered on terms that would preclude the
4 success of the project; and

5 (4) whether there is reasonable assurance that the
6 potential revenues to be derived from the sale of the product will
7 be sufficient to repay any venture financing approved by the
8 department[7]. ~~[and-whether,--with-respect-to--patents,--copyrights,~~
9 ~~and--other--ownership--rights--relative--to--the--product,--there-is~~
10 ~~reasonable-assurance-that-the-product-will-be-used-to--the--maximum~~
11 ~~extent-possible-in-facilities-located-in-Texas.]~~

12 (c) The executive director shall submit the report to the
13 department. After considering the report, together with other
14 information that the department considers appropriate, the
15 department shall approve or deny the application for venture
16 financing, and promptly notify the applicant of its decision.

17 SECTION 4. Subchapter Q Section 481.225 of the Government
18 Code as added by S.B. 223, Acts of the 71st Legislature, Regular
19 Session, 1989, is amended to read as follows:

20 Sec. 481.225 INFORMATION CONFIDENTIAL. Information relating
21 to a product, and the application or use of a product, and
22 technological and scientific information, including computer
23 programs, developed in whole or part by an applicant for or
24 recipient of venture financing, is confidential and is not subject
25 to disclosure under state law or otherwise, regardless of whether
26 the product is patentable or capable of being registered under
27 copyright or trademark laws, or has a potential for being sold,

1 traded, or licensed for a fee; however, nothing in this subchapter
2 shall prevent or restrict the Office of Advanced Technology or the
3 advisory board from obtaining information relating to a product or
4 process from an applicant or recipient of a loan under this
5 subchapter.

6 SECTION 5. Subchapter Q of the Government Code as added by
7 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
8 amended by adding Sections 481.226, 481.227, 481.228 and 481.229
9 as follows:

10 Sec. 481.226. ADVISORY BOARD. (a) The Product Development
11 Advisory Board is composed of:

12 (1) one representative of the Texas Higher Education
13 Coordinating Board selected by the Texas Higher Education
14 Coordinating Board; and

15 (2) two persons appointed by the governor;
16 (3) two persons appointed by the lieutenant governor;
17 and

18 (4) two persons appointed by the speaker of the house
19 of representatives.

20 (b) In appointing members of the advisory board, the
21 governor, lieutenant governor, and the speaker of the house shall
22 appoint persons having significant business leadership experience
23 with emerging technologies, particularly experience with the
24 transfer of research results into commercial application.

25 (c) Members of the advisory board serve two-year staggered
26 terms with the terms of four members expiring February 1 of each
27 odd-numbered year and the terms of three members expiring February

1 1 of each even-numbered year.

2 (d) The governor shall appoint the advisory board's chairman
3 from among its members.

4 (e) The advisory board shall adopt rules establishing limits
5 on the amount of each loan and otherwise governing the terms and
6 conditions of the loans, specifically including requirements for
7 appropriate security or collateral and the rights and remedies of
8 the department in the event of a default on the loan. Such rules
9 shall include a requirement that borrowers shall report to the
10 advisory board on the use of monies distributed through this fund.

11 Sec. 481.227. ELIGIBLE PROJECTS AND BORROWERS. (a) A loan
12 may be made under this subchapter only to finance a project
13 approved by the advisory board and the governing board of the Texas
14 Department of Commerce.

15 (b) In determining eligible projects the advisory board and
16 the board shall give special preference to projects that have the
17 greatest likelihood of commercial success, specifically including
18 but not limited to projects in the areas of biotechnology,
19 biomedicine, energy, materials science, microelectronics,
20 aerospace, marine science, aquaculture, telecommunications,
21 manufacturing science, and other priority research areas as
22 provided in Section 143.003 of the Texas Education Code. The
23 priority research area of agriculture will be funded according to
24 the provisions of Chapter 58, Subchapter D of the Agriculture Code.
25 The advisory board further shall give consideration to: (1)
26 grantees under the small business innovation research program
27 established under 15 U.S.C. Section 638; (2) Texas companies

1 formed to commercialize research funded at least in part with state
2 funds; (3) Texas companies receiving assistance from designated
3 state small business development centers.

4 Sec. 481.228. CONSIDERATION IN FINANCING. In determining
5 whether to provide financing under this subchapter, the board shall
6 consider the likelihood of success of the applicant and the effect
7 of the financing on job creation and retention in the state. The
8 board shall give preference to applicants who are Texas residents
9 doing business in the state and performing financed activities
10 predominantly in the state, and then to applicants who can
11 demonstrate that the financed activities will take place
12 predominantly in this state.

13 Sec. 481.229. BONDS. (a) The board may issue up to \$45
14 million of general obligation bonds and may use the proceeds of the
15 bonds to provide venture financing under this subchapter. The
16 board shall deposit the proceeds of the bonds in the Texas product
17 development fund and apply them in accordance with the resolution
18 authorizing the bonds. The Texas product development fund and any
19 accounts established in the fund shall be held in trust by the
20 state treasurer for and on behalf of the department and the owners
21 of the general obligation bonds issued in accordance with this
22 section, and may be used only as provided by this section. Pending
23 use, the treasurer may invest and reinvest money in the product
24 development fund in investments authorized by law for state funds
25 that the treasurer, consistent with the board's resolutions
26 authorizing the bonds, considers appropriate. Repayments of
27 financial assistance provided under this subchapter, together with

1 earnings received on investments of the product development funds,
2 shall be deposited, first, in the interest and sinking account as
3 prescribed by the board's resolutions authorizing bonds under this
4 subchapter, and, second, in any reserve account established by the
5 board until that account is fully funded as prescribed by the
6 board's resolutions. If, during the time any general obligation
7 bonds are payable from the interest and sinking account, the board
8 determines that there will not be sufficient money in the interest
9 and sinking account during the following fiscal year to pay the
10 principal of or interest on the general obligation bonds or both
11 the principal and interest that are to come due during the
12 following fiscal year, the comptroller of public accounts shall
13 transfer to the fund the first money coming into the state treasury
14 not otherwise appropriated by the constitution in an amount
15 sufficient to pay the obligations.

16 (b) The bonds may be issued from time to time in one or more
17 series or issues, in bearer, registered, or any other form, which
18 may include registered uncertificated obligations not represented
19 by written instruments and commonly known as book-entry
20 obligations, the registration of ownership and transfer of which
21 shall be provided for by the board under a system of books and
22 records maintained by the department or by an agent appointed by
23 the board in a resolution providing for issuance of its bonds.
24 Bonds may mature serially or otherwise not more than 40 years from
25 their date. Bonds may bear no interest or may bear interest at any
26 rate or rates, fixed, variable, floating or otherwise, determined
27 by the board or determined pursuant to any contractual arrangements

1 approved by the board, not to exceed the maximum net effective
 2 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
 3 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
 4 Statutes). Interest on the bonds may be payable at any time and
 5 the rate of interest on the bonds may be adjusted at any time
 6 determined by the board pursuant to the resolutions authorizing the
 7 bonds or determined pursuant to any contractual arrangement
 8 approved by the board. In connection with the issuance of its
 9 bonds, the board may exercise the powers granted to the governing
 10 body of an issuer in connection with the issuance of obligations
 11 under Chapter 656, Acts of the 68th Legislature. Regular Session,
 12 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent
 13 not inconsistent with this section. The bonds may be issued in the
 14 form and denominations and executed in the manner and under the
 15 terms, conditions, and details determined by the board in the
 16 resolution authorizing their issuance. If any officer whose manual
 17 or facsimile signature appears on the bonds ceases to be an
 18 officer, the signature remains valid and sufficient for all
 19 purposes as if the officer had remained in office.

20 (c) All bonds issued by the board under this section are
 21 subject to review and approval by the attorney general in the same
 22 manner and with the same effect as is provided by Chapter 656, Acts
 23 of the 68th Legislature, Regular Session, 1983 (Article 717q,
 24 Vernon's Texas Civil Statutes).

25 (d) The bonds are a legal and authorized investment for a
 26 bank, trust company, savings and loan association, insurance
 27 company, fiduciary, trustee, or guardian or sinking fund of a

municipality, county, school district, or political subdivision of the state. The bonds may secure deposits of public funds of the state, a municipality, a county, a school district, or another political corporation or subdivision of the state. The board may issue bonds to refund all or part of its outstanding bonds, including accrued but unpaid interest. The bonds, a transaction relating to the bonds, or a profit made in the sale of the bonds is exempt from taxation by the state, an agency or subdivision of the state, a municipality, or a special district.

(e) This section is contingent on the adoption of the constitutional amendment proposed by H.J.R. 70, Acts of the 71st Legislature, Regular Session, 1989. If that proposed constitutional amendment is not approved by the voters, this section has no effect.

SECTION 6. Section 481.242, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.242. SMALL BUSINESS INCUBATOR FUND. (a) The small business incubator fund is a revolving fund in the state treasury.

(b) Money appropriated to the department, proceeds of bonds issued under this subchapter, application fees, guarantee fees, royalty receipts, dividend income, loan repayments, and other amounts received by the state for loans, loan guarantees, equity in investments, or grants made under this subchapter, and any other money received by the department under this subchapter and required by resolution of the board to be deposited in the fund, including federal funds and the proceeds of any investment pools operated by

1 the Treasurer shall be deposited to the credit of the fund.
2 Appropriated money in the fund may be applied and reapplied to the
3 purposes of this subchapter. (V.A.C.S. Art. 4413(301), Sec.
4 16.012.)

5 SECTION 7. Subchapter R, Chapter 481, Government Code as
6 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
7 1989, is amended by adding Sections 481.244, 481.245, and 481.246
8 to read as follows:

9 Sec. 481.244. INVESTMENT POOLS. The department shall
10 develop programs encouraging the creation of local investment pools
11 to assist with the financing of businesses emerging from the
12 incubator.

13 Sec. 481.245. BONDS. (a) The board may issue up to \$20
14 million of general obligation bonds and may use the proceeds, less
15 the costs of issuance of the bonds, to carry out the small business
16 incubator program in accordance with the resolution authorizing the
17 bonds. The board shall deposit the proceeds of the bonds in the
18 small business incubator fund and apply them in accordance with the
19 resolution authorizing the bonds. The small business incubator
20 fund and any accounts established in the fund shall be held in
21 trust by the state treasurer for and on behalf of the department
22 and the owners of the general obligation bonds issued in accordance
23 with this section, and may be used only as provided by this
24 subchapter. Pending use, the treasurer may invest and reinvest
25 money in the small business incubator fund in investments
26 authorized by law for state funds that the treasurer, consistent
27 with the board's resolutions authorizing the bonds, considers

1 appropriate. Repayments of financial assistance provided under
2 this subchapter, together with earnings received on investments of
3 the small business incubator fund, shall be deposited, first, in
4 the interest and sinking account as prescribed by the board's
5 resolutions authorizing bonds under this article, and, second, in
6 any reserve account established by the board until that account is
7 fully funded as prescribed by the board's resolutions. If, during
8 the time any general obligation bonds are payable from the interest
9 and sinking account, the board determines that there will not be
10 sufficient money in the interest and sinking account during the
11 following fiscal year to pay the principal of or interest on the
12 general obligation bonds or both the principal and interest that
13 are to come due during the following fiscal year, the comptroller
14 of public accounts shall transfer to the fund the first money
15 coming into the state treasury not otherwise appropriated by the
16 constitution in an amount sufficient to pay the obligations.

17 (b) The bonds may be issued from time to time in one or more
18 series or issues, in bearer, registered, or any other form, which
19 may include registered uncertificated obligations not represented
20 by written instruments and commonly known as book-entry
21 obligations, the registration of ownership and transfer of which
22 shall be provided for by the board under a system of books and
23 records maintained by the department or by an agent appointed by
24 the board in a resolution providing for issuance of its bonds.
25 Bonds may mature serially or otherwise not more than 40 years from
26 their date. Bonds may bear no interest or may bear interest at any
27 rate or rates, fixed, variable, floating, or otherwise, determined

1 by the board or determined pursuant to any contractual arrangements
2 approved by the board, not to exceed the maximum net effective
3 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
4 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
5 Statutes). Interest on the bonds may be payable at any time and
6 the rate of interest on the bonds may be adjusted at any time
7 determined by the board pursuant to the resolutions authorizing the
8 bonds or determined pursuant to any contractual arrangement
9 approved by the board. In connection with the issuance of its
10 bonds, the board may exercise the powers granted to the governing
11 body of an issuer in connection with the issuance of obligations
12 under Chapter 656, Acts of the 68th Legislature, Regular Session,
13 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent
14 not inconsistent with this section. The bonds may be issued in the
15 form and denominations and executed in the manner and under the
16 terms, conditions, and details determined by the board in the
17 resolution authorizing their issuance. If any officer whose manual
18 or facsimile signature remains valid and sufficient for all
19 purposes as if the officer had remained in office.

20 (c) All bonds issued by the board under this section are
21 subject to review and approval by the attorney general in the same
22 manner and with the same effect as is provided by Chapter 656, Acts
23 of the 68th Legislature, Regular Session, 1983 (Article 717q,
24 Vernon's Texas Civil Statutes).

25 (d) The bonds are a legal and authorized investment for a
26 bank, trust company, savings and loan association, insurance
27 company, fiduciary, trustee, or guardian or a sinking funds of a

1 municipality, county, school district, or political subdivision of
2 the state. The bonds may secure deposits of public funds of the
3 state, a municipality, a county, a school district, or another
4 political corporation or subdivision of the state. The department
5 may issue bonds to refund all or part of its outstanding bonds,
6 including accrued but unpaid interest. The bonds, a transaction
7 relating to the bonds, or a profit made in the sale of the bonds is
8 exempt from taxation by the state, an agency or subdivision of the
9 state, a municipality, or a special district.

10 (e) This section is contingent on the adoption of the
11 constitutional amendment proposed by H.J.R. 70, Acts of the 71st
12 Legislature, Regular Session, 1989. If that proposed
13 constitutional amendment is not approved by the voters, this
14 section has no effect.

15 Sec. 481.246. CONSIDERATIONS IN FINANCING. In determining
16 whether to provide financing under this subchapter, the board shall
17 consider the likelihood of success of the applicant and the effect
18 of the financing on job creation and retention in the state. The
19 board shall give preference to applicants who are Texas residents
20 doing business in the state, and then to applicants who can
21 demonstrate that the financed activities will take place
22 predominantly in this state.

23 SECTION 8. Chapter 58, Agriculture Code, is amended by
24 adding Subchapter D to read as follows:

25 SUBCHAPTER D. BONDS

26 Sec. 58.031. ISSUANCE OF GENERAL OBLIGATION BONDS. (a) The
27 board by resolution may provide for the issuance of up to \$25

1 million of general obligation bonds as authorized by the Texas
2 Constitution. The bonds shall be on a parity. The authority may
3 issue bonds in one or several installments. Before authorizing the
4 issuance of any general obligation bonds, the board must find that
5 the issuance of revenue bonds was not an economically advisable
6 alternative for carrying out this chapter.

7 (b) Proceeds of the bonds shall be deposited in the Texas
8 agricultural fund and applied in accordance with the resolution
9 authorizing the bonds:

10 (1) to provide financial assistance to eligible
11 agricultural businesses;

12 (2) to pay costs of issuance of those bonds and the
13 administration of any financial assistance program established with
14 money in the Texas agricultural fund; and

15 (3) together with any other available funds, to pay
16 the principal of or interest on or to discharge or redeem, in whole
17 or in part, any outstanding bonds issued by the authority.

18 Sec. 58.032. TEXAS AGRICULTURAL FUND. (a) The Texas
19 agricultural fund is a fund in the state treasury.

20 (b) The Texas agricultural fund may, at the direction of the
21 board, receive from the state or federal government or from any
22 other person, money that is to be administered by the authority in
23 connection with the provision of financial assistance to eligible
24 agricultural businesses, including those businesses engaged in the
25 application of biotechnology to agriculture, under any program
26 funded in whole or in part with the proceeds of general obligation
27 bonds issued to carry out the purpose of this chapter.

1 (c) The board may provide for the establishment and
2 maintenance of separate accounts within the Texas agricultural
3 fund, including program accounts as prescribed by the board, an
4 interest and sinking account, a reserve account, and other accounts
5 provided for by the board in its resolutions. Repayments of
6 financial assistance under any program funded in whole or in part
7 with the proceeds of any series of general obligation bonds shall
8 be deposited first in the interest and sinking account as
9 prescribed by the board's resolutions authorizing such series of
10 general obligation bonds, and second in the reserve account in
11 respect of such series of general obligation bonds until that
12 account is fully funded as prescribed by the board's resolutions.
13 The fund and all accounts within it shall be kept and maintained at
14 the direction of the board and held in trust by the state treasurer
15 for and on behalf of the authority and the owners of the general
16 obligation bonds issued in accordance with this chapter, and may be
17 used only as provided by this chapter. Pending its use, money in
18 the fund shall be invested as prescribed by the resolution by which
19 the bonds were issued.

20 (d) To the extent the board determines that any money
21 credited to the Texas agricultural fund from repayments of
22 financial assistance is not required by Subsection (c) of this
23 section and the resolutions of the board to be held in the interest
24 and sinking account or reserve account to provide for the payment
25 of the principal of and interest on the outstanding general
26 obligation bonds issued by the authority, that money may be used by
27 the authority to pay the principal of and interest on revenue bonds

1 issued by the authority or for any other authorized purpose of the
 2 authority, in accordance with this chapter and the authority's
 3 resolutions authorizing general obligation bonds.

4 (e) If during the existence of the Texas agricultural fund
 5 or during the time any general obligation bonds are payable from
 6 the fund the board determines that there will not be sufficient
 7 money in the interest and sinking account during the following
 8 fiscal year to pay the principal of or interest on the general
 9 obligation bonds or both the principal and interest that are to
 10 come due during the following fiscal year, the comptroller of
 11 public accounts shall transfer to the fund the first money coming
 12 into the state treasury not otherwise appropriated by the
 13 constitution in an amount sufficient to pay the obligations.

14 (f) The department may receive, and shall deposit in the
 15 Texas agricultural fund, appropriations, grants, donations, earned
 16 federal funds, and the proceeds of any investment pools operated by
 17 the treasurer. The Texas product development fund shall operate as
 18 a revolving fund the contents of which may be applied and reapplied
 19 to the purposes of this chapter.

20 Sec. 58.033. ISSUANCE OF REVENUE BONDS. (a) In addition to
 21 the authority to issue general obligation bonds, the authority may
 22 issue not more than \$500 million of revenue bonds for the purpose
 23 of the authority under this chapter. The authority shall establish
 24 and maintain funds and accounts, in accordance with Subsection (d)
 25 of this section, that the board considers necessary to ensure
 26 payment of the bonds and to provide for the use of the bond
 27 proceeds and the implementation of the program financed. Proceeds

1 of revenue bonds shall be applied in accordance with the resolution
2 authorizing those bonds:

3 (1) to provide financial assistance to eligible
4 agricultural businesses;

5 (2) to pay costs of issuance of those bonds and the
6 administration of any financial assistance program established by
7 the authority; and

8 (3) together with any other available funds, to pay
9 the principal of or interest on or to discharge or redeem, in whole
10 or in part, any outstanding bonds issued by the authority.

11 (b) The authority's revenue bonds are obligations solely of
12 the authority and are payable solely from funds of the authority
13 that are pledged to the repayment of the revenue bonds. The
14 authority may not use, except as provided in Section 58.032, or
15 pledge money in the Texas agricultural fund to repayment of its
16 revenue bonds. The authority's bonds are not and do not create or
17 constitute a pledge, giving, or lending of the faith or credit or
18 taxing power of the state. Each bond of the authority issued under
19 this section must contain a statement to the effect that the state
20 is not obligated to pay the principal of or any premium or interest
21 on the bond, and that neither the faith or credit nor the taxing
22 power of the state is pledged, given, or loaned to such a payment.

23 (c) Revenue bonds of the authority shall be payable as to
24 principal, interest, and redemption premium, if any, from and
25 secured by a first lien or a subordinate lien on and pledge of all
26 or any part of the property, revenues, income, or other resources
27 of the authority, as specified in the board's resolution

1 authorizing issuance of those bonds, including mortgages or other
2 interests in property financed, with the proceeds of such bonds,
3 repayments of financial assistance, earnings from investments or
4 deposits of the bonds of the authority, fees, charges, and any
5 other amounts or payments received pursuant to this chapter, and
6 any appropriations, grants, allocations, subsidies, supplements,
7 guaranties, aid, contribution, or donations from the state or
8 federal government or any other person.

9 (d) The board may make additional covenants with respect to
10 the bonds and the pledged revenues and may provide for the flow of
11 funds, the establishment and maintenance and investment of funds,
12 which may include interest and sinking funds, reserve funds,
13 program funds, and other funds. Those funds shall be kept and
14 maintained in escrow and in trust by the state treasurer for and on
15 behalf of the authority and the owners of its revenue bonds, in
16 funds held outside the treasury pursuant to Section 3.051, Treasury
17 Act (Article 4393-1, Vernon's Texas Civil Statutes). Those funds
18 shall be used only as provided by this chapter, and pending their
19 use shall be invested as provided by any resolution of the
20 authority. Legal title to those funds shall be in the authority
21 unless or until paid out as provided by this chapter or by the
22 resolutions authorizing the authority's bonds. The state
23 treasurer, as custodian, shall administer those funds strictly and
24 only as provided by this chapter and in those resolutions. The
25 treasurer shall invest the funds in investments authorized by law
26 for state funds. The state shall take no action with respect to
27 those funds other than that specified in this chapter and in those

1 resolutions.

2 (e) The board may provide in the resolution authorizing any
3 revenue bonds for the issuance of additional bonds to be equally
4 and ratably secured by lien on the revenues and receipts, or for
5 the issuance of subordinate lien bonds.

6 Sec. 58.034. GENERAL PROVISIONS RELATING TO BONDS. (a) The
7 authority's bonds may be issued from time to time in one or more
8 series or issues, in bearer, registered, or any other form, which
9 may include registered uncertified obligations not represented by
10 written instruments and commonly known as book-entry obligations,
11 the registration of ownership and transfer of which shall be
12 provided for by the authority under a system of books and records
13 maintained by the authority or by an agent appointed by the
14 authority in resolution providing for issuance of its bonds. Bonds
15 may mature serially or otherwise not more than 40 years from their
16 date. Bonds may bear no interest or may bear interest at any rate
17 or rates, fixed, variable, floating, or otherwise, determined by
18 the board or determined pursuant to any contractual arrangements
19 approved by the board, not to exceed the maximum net effective
20 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
21 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
22 Statutes). Interest on the bonds may be payable at any time, and
23 the rate of interest on the bonds may be adjusted at such time as
24 may be determined by the board or as may be determined pursuant to
25 any contractual arrangement approved by the board. In connection
26 with the issuance of its bonds, the board may exercise the powers
27 granted to the governing body of an issuer in connection with the

1 issuance of obligations under Chapter 656, Acts of the 68th
 2 Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas
 3 Civil Statutes), to the extent not inconsistent with this chapter.

4 (b) The bonds issued under this chapter and interest
 5 coupons, if any, are investment securities under the terms of
 6 Chapter 8, Business & Commerce Code. The bonds are exempt
 7 securities under The Securities Act (Article 581-1 et seq.,
 8 Vernon's Texas Civil Statutes), and unless specifically provided
 9 otherwise, under any subsequently enacted securities act. Any
 10 contract, guaranty, or any other document executed in connection
 11 with the issuance of bonds pursuant to this chapter is not a
 12 security under The Securities Act (Article 581-1 et seq., Vernon's
 13 Texas Civil Statutes), and, unless specifically provided otherwise,
 14 any subsequently enacted securities act. The board is authorized
 15 to do all things necessary to qualify the bonds for offer and sale
 16 under the securities laws and regulations of the United States and
 17 of the states and other jurisdictions in the United States as the
 18 board shall determine.

19 (c) The bonds may be issued in the form and denominations
 20 and executed in the manner and under the terms, conditions, and
 21 details determined as provided by the board in the resolution
 22 authorizing their issuance. If any officer whose manual or
 23 facsimile signature appears on the bonds ceases to be an officer,
 24 the signature is still valid and sufficient for all purposes as if
 25 the officer had remained in office.

26 (d) All bonds issued by the authority are subject to review
 27 and approval by the attorney general in the same manner and with

1 the same effect as is provided by Chapter 656, Acts of the 68th
2 Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas
3 Civil Statutes).

4 (e) No fee may be charged by any other agency of this state
5 in connection with the issuance of the bonds or the allocation of a
6 portion of the state volume limitation on private activity bonds
7 either under executive order or legislative enactment. No
8 proceeding, notice, or approval is required for the issuance of any
9 bonds or any instrument as security except as provided by this Act.
10 Nothing in this subsection may be constituted to deprive the state
11 and its governmental subdivisions of their respective police powers
12 or to impair any police power of any official or agency of the
13 state or its subdivisions as may be provided by law.

14 (f) The state pledges to and agrees with the owners of any
15 bonds issued in accordance with this chapter that the state will
16 not limit or alter the rights vested in the authority to fulfill
17 the terms of any agreements made with the owners of the bonds or in
18 any way impair the rights and remedies of those owners until those
19 bonds, together with any premium and the interest on the bonds and
20 all costs and expenses in connection with any action or proceeding
21 by or on behalf of those owners, are fully met and discharged. The
22 authority is authorized to include this pledge and agreement of the
23 state in any agreement with the owners of those bonds.

24 (g) The bonds may be sold at public or private sale with or
25 without public bidding in the manner, at such rate or rates, price
26 or prices, and on such terms as may be determined by the board or
27 determined as provided in any contractual arrangement approved by

1 the board. The board also may enter into any contractual
2 arrangement under which the bonds are to be sold from time to time,
3 or subject to purchase, at such prices and rates, interest rate or
4 payment periods, and terms as determined pursuant to that
5 contractual arrangement approved by the board.

6 (h) Pending the preparation of definitive bonds, interim
7 receipts or certificates in the form and with the provisions that
8 are provided in the resolution may be issued to the purchaser or
9 purchasers of bonds sold under this chapter.

10 (i) The board may provide procedures for the replacement of
11 a mutilated, lost, stolen, or destroyed bond or interest coupon.

12 (j) The resolutions of the board issuing bonds may contain
13 other provisions and covenants as the board may determine.

14 (k) The board may adopt and have executed any other
15 proceedings or instruments necessary and convenient in the issuance
16 of bonds.

17 (l) The authority may not issue bonds after August 31, 1993.

18 Sec. 58.035. REFUNDING BONDS. The authority may issue,
19 sell, and deliver bonds to refund all or any part of its
20 outstanding bonds, including the payment of any redemption premium
21 and interest accrued, under such terms, conditions, and details as
22 determined by the board. Bonds issued by the authority may be
23 refunded in the manner provided by any other applicable statute,
24 including Chapter 503, Acts of the 54th Legislature, Regular
25 Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), and
26 Chapter 784, Acts of the 61st Legislature, Regular Session, 1969
27 (Article 717k-3, Vernon's Texas Civil Statutes). Bonds, the

provision for the payment of all interest and applicable premiums on which and the principal of which has been made through the irrevocable deposit of money with the treasurer in accordance with the provisions of such an applicable statute, shall no longer be charged against the issuing authority of the authority, and on the making of such provision such issuing authority shall, to the extent of the principal amount of such bonds, be restored.

Sec. 58.036. PAYMENT ENFORCEABLE BY MANDAMUS. Payment of the bonds and performance by the authority or the commissioner of its or his functions and duties under this chapter and the Texas Constitution may be enforced in the state supreme court by mandamus or other appropriate proceeding.

Sec. 58.037. BONDS AS INVESTMENTS. (a) The bonds are legal and authorized investments for:

- (1) banks;
- (2) trust companies;
- (3) savings and loan associations;
- (4) insurance companies of all kinds and types;
- (5) fiduciaries;
- (6) trustees;
- (7) guardians; and
- (8) sinking and other public funds of the state, municipalities, counties, school districts, and other political subdivisions of the state.

(b) The bonds are eligible to secure the deposit of any public funds of the state, municipalities, counties, school districts, or other political subdivisions of the state, and the

1 bonds shall be lawful and sufficient security for the deposits to
2 the extent of their face value when accompanied by all unmatured
3 coupons attached to the bonds.

4 Sec. 58.038. TAX STATUS OF BONDS. The bonds issued by the
5 authority, any transaction relating to the bonds, and any profits
6 made in the sale of the bonds are free from taxation by the state
7 or by any city, county, special district, or other political
8 subdivision of the state; provided that this section does not
9 exempt the owner of any property financed under this chapter from
10 any ad valorem, sales, use, excise, or other tax levied by the
11 state or any political corporation of this state.

12 Sec. 58.039. REVIEW. Bonds may not be issued under this
13 chapter, and proceeds of bonds under this chapter may not be used
14 to finance a program unless the issuance of program, as applicable,
15 has been reviewed and approved by the review board.

16 Sec. 58.040. CONSIDERATIONS IN FINANCING. In determining
17 whether to provide financing under this chapter, the board shall
18 consider the likelihood of success of the applicant and the effect
19 of the financing on job creation and retention in the state. The
20 board shall give preference to applicants who are Texas residents
21 doing business in the state, and then to applicants who can
22 demonstrate that the financed activities will take place
23 predominantly in this state.

24 Sec. 58.041. The provisions of this section authorizing the
25 issuance of general obligation bonds are contingent on adoption of
26 the constitutional amendment proposed by H.J.R. No. 70, 71st
27 Legislature, Regular Session, 1989. If that amendment is not

1 approved by the voters, those provisions have no effect.

2 SECTION 9. The importance of this legislation and the
3 crowded condition of the calendars in both houses create an
4 emergency and an imperative public necessity that the
5 constitutional rule requiring bills to be read on three several
6 days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

4/25/89
(date)

Sir:

We, your COMMITTEE ON SCIENCE AND TECHNOLOGY,

to whom was referred NB 1860 have had the same under consideration and beg to report
(measure)

back with the recommendation that it

() do pass, without amendment.

() do pass, with amendment(s).

(☒) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (☒) yes () no

An actuarial analysis was requested. () yes (☒) no

An author's fiscal statement was requested. () yes (☒) no

A criminal justice policy impact statement was prepared. () yes (☒) no

A water development policy impact statement was requested. () yes (☒) no

() The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the () Local, () Consent, or () Resolutions Calendar.

This measure () proposes new law. (☒) amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

| | AYE | NAY | PNV | ABSENT |
|-----------------|-------------------------------------|-----|-----|-------------------------------------|
| Luna, Ch. | <input checked="" type="checkbox"/> | | | |
| Blackwood, V.C. | <input checked="" type="checkbox"/> | | | |
| Campbell | <input checked="" type="checkbox"/> | | | |
| Cuellar, H. | <input checked="" type="checkbox"/> | | | |
| Culberson | | | | <input checked="" type="checkbox"/> |
| Delco | <input checked="" type="checkbox"/> | | | |
| Shelley | | | | <input checked="" type="checkbox"/> |
| Richardson | <input checked="" type="checkbox"/> | | | |
| Willis | | | | <input checked="" type="checkbox"/> |
| | | | | |
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| | | | | |
| | | | | |
| | | | | |

Total

6 aye

0 nay

0 present, not voting

3 absent

Al Luna

CHAIRMAN

Deborah K. Wall

COMMITTEE COORDINATOR

BILL ANALYSIS

By: Colbert
By: H. Cuellar

H.B. 1860
C.S.H.B. 1860

BACKGROUND

Product development funds and small business incubator programs are a means to encourage business growth and offer financing options for business research and development, new business start-ups, and business expansion. The Texas Product Development Fund, Texas Small Business Incubator Fund, and the Texas Agricultural Fund are continuations of the economic development initiatives implemented during the last session and would provide funding alternatives to foster and stimulate businesses in Texas.

PURPOSE

This bill would create the Texas Product Development Fund and permit the issuance of \$25 million in general obligation bonds for the development of new or improved products in Texas. H.B. 1860 also creates the Texas Small Business Incubator Fund and would permit the issuance of \$20 million in general obligation bonds to be used to stimulate the development of small businesses. H.B. 1860 also authorizes \$25 million in general obligation bonds to be issued to create the Texas Agricultural Fund to assist agricultural businesses. This bill would become effective upon adoption and passage of H.J.R. 70; a constitutional amendment, which if approved by the Legislature, will go before the voters on November 7, 1989.

RULEMAKING AUTHORITY

It is the opinion of this Committee that this bill delegates rulemaking authority to the Texas Department of Commerce.

Specifically, this bill gives the Product Development Advisory Board the authority to adopt rules governing the terms and conditions of loans from the product development fund.

SECTION-BY-SECTION ANALYSIS

SECTION 1:

Subchapter Q Section 481.221 of the Government Code as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.221 Definitions.

Subchapter Q, Chapter 481, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended by adding Sections 481.226 and 481.227 to read as follows:

SECTION 2:

Subchapter Q Section 481.222 of the Government Code as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

- Sec. 481.222 Texas Product Development Fund; Venture Financing
- (a) The product development fund is a "revolving" fund, and consists of "funds appropriated to the Department", application fees" and "amounts received by the state for loans and or grants made under this section". "Article" is replaced by "subchapter".
 - (b) Money in the program account shall be used for "necessary costs of administering the fund" and it may be used to aid "the commercialization" of products. "Article" is replaced with "subchapter".
 - (c) Before approving the financing, the department shall enter into an agreement and obtain "an appropriate portion" of proceeds of the product. "Article" is replaced with "subchapter"..

SECTION 3:

Subchapter Q Section 481.224 of the Government Code as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

- Sec. 481.224 Application.
- (a) "The application shall include a business plan" is added to subsection (a). The executive director is no longer mandated to conduct an investigation or produce a report.
 - (3) "description of attempts to obtain private financing," is added to the contents of the application.
 - (b) (4) The use of the product in Texas facilities is deleted as a consideration in reviewing the application.

SECTION 4:

Subchapter Q Section 481.225 of the Government Code as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

- Sec. 481.225 Information Confidential.
- This section states that products or processes are confidential and not subject to disclosure under state law; "however, nothing in this subchapter shall prevent or restrict the Office of Advanced Technology or the advisory board from obtaining information".

SECTION 5:

Subchapter Q of the Government Code as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended by adding Sections 481.226, 481.227, 481.228 and 481.229 as follows:

- Sec. 481.226 Advisory Board.
- (a) The product development advisory board is comprised of:
 - (1) one representative from the Higher Education Coordinating Board;
 - (2) two persons appointed by the governor;
 - (3) two persons appointed by the lieutenant governor;
 - (4) two persons appointed by the speaker of the house.

- (b) Persons appointed shall have "significant business leadership experience with emerging technologies, particularly with the transfer of research results into commercial application".
- (c) Members shall serve two-year staggered terms.
- (d) The governor shall appoint the chairman.
- (e) The advisory board shall adopt rules and establish terms and conditions of the loans. Borrowers shall report to the advisory committee on the use of the money.

Sec. 481.227 Eligible Projects and Borrowers.

- (a) A loan may be made only to finance projects approved by the advisory board and the governing board.
- (b) Special preference shall be given to projects that have the greatest likelihood of commercial success. The board shall further give consideration to:
 - (1) grantees under the Small Business Innovation Program;
 - (2) Texas companies formed to commercial research funded in part by state funds; and
 - (3) Texas companies receiving assistance from designated state small business development centers.

Sec. 481.228 Considerations in Financing.

This section was Sec. 481.227 in the original version of the bill; page 4, line 9.

Sec. 481.229 Bonds.

This section was Sec. 481.226 in the original version of the bill; page 1, line 9. Changes from the original version are as follows:

- (a) The board may issue up to "\$45" million in general obligation bonds.
- (e) This section is contingent on the adoption and voter approval of H.J.R. 70.

SECTION 6:

Section 481.242, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.242 Small Business Incubator Fund.

- (b) "Proceeds of bonds issued under this subchapter application fees, guarantee fees, royalty receipts, and dividend payments" are added to the list of money the department receives shall be deposited to the fund.

SECTION 7:

This was Section 3 in the original version of the bill; page 4, line 27. The additions or deletions from the original are as follows:

Sec. 481.245 Bonds.

- (a) "Not more than \$10 million of the bond proceeds may be used for challenge grants" has been deleted in the committee substitute.
- (e) This section is contingent upon the passage and voter approval of H.J.R. 70.

Sec. 481.246 Considerations in Financing.

Section 481.245 of the original bill has been renumbered: Sec. 481.246 in the committee substitute.

SECTION 8:

Chapter 58, Agriculture code, is amended by adding Subchapter D to read as follows:

This was Section 5 of the original bill; page 8, line 18. The changes from the original are as follows:

- Sec. 58.032 Texas Agricultural Fund.
(b) Added to the list of eligible agricultural businesses, is "businesses engaged in the application of biotechnology to agriculture,".
- Sec. 58.041 This section is contingent on the passage and voter approval of H.J.R. 70.

SECTION 9:

Emergency clause.

COMPARISON OF THE ORIGINAL TO THE COMMITTEE SUBSTITUTE

Comparisons made in this section of the bill analysis are based on the numbering found in the committee substitute, except where deletions from the original bill are concerned, unless otherwise noted.

SECTION 1:

- Sec. 481.221(a). Adds statutes for an advisory board, the fund and an office.

SECTION 2:

- Sec. 481.222(a). Changes the wording on the contents of the fund. Adds appropriations as a component.
- (b). Allows funds to be used for administration and adds specific emphasis on commercialization.
- (c). Corrects language regarding the amount of royalties retained by the state.

SECTION 3:

- Sec. 481.224(a). The applicant must submit a business plan and proof that financing was sought elsewhere. The original required the department to prepare a report.
- (b). Deletes the preference for products to be used in Texas.

SECTION 4:

- Sec. 481.225: Same as the original bill.

SECTION 5:

- Sec. 481.226: Adds an advisory board.
- Sec. 481.226: Gives preference to products with likely commercial success, in certain specified technical areas, SBIR grantees, companies
- 5

financed with state funds, or companies receiving assistance from SBDC's.

Sec. 481.228: Gives preference to job creation and retention and to Texas companies.

Sec. 481.229: Increase in the general obligation bonding authority from \$25 million to \$45 million.

SECTION 6:

Sec. 481.242: Changes in the wording relating to the fund.

SECTION 7:

Sec. 481.244: Mandates department to encourage investment pools.

Sec. 481.225: Same as original.

Sec. 481.226: Same as original.

SECTION 8:

Sec. 58.032(b). Add those businesses engaged in the application of biotechnology to agriculture.

Sec. 58.041: Technical corrections have been made to the contingency clause.

SECTION 9:

Same as the original.

SUMMARY OF COMMITTEE ACTION

Public notice was posted in accordance with House Rules and a public hearing was held on April 11, 1989.

The chair laid out H.B. 1860.

A motion was made to offer a committee substitute, there being no objections, the substitute was adopted.

Testifying on the bill were: William Stotesbery, Vice President, Westmark Systems, Inc.; Keren Ware, Director Office of Advanced Technology, Texas Department of Commerce; Harold Blair, Chairman DTM Corporation; Brian Muller, Economic Development Coordinator, Texas Department of Agriculture.

A motion was made that C.S.H.B. 1860 be left as pending business before committee, there being no objections the motion prevailed.

In a public hearing on April 25, 1989, the chair laid out C.S.H.B. 1860.

A motion was made that C.S.H.B. 1860 be reported favorably to the full House. The motion carried with a record vote of 6 ayes, no nays, no PNV and 3 absent.

Committee on Science and Technology
ESM

6

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 4, 1989

TO: Honorable Al Luna, Chair
Committee on Science and Technology
House of Representatives
Austin, Texas

In Re: Committee Substitute for
House Bill No. 1860

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 1860 (relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would authorize the issuance of \$90 million in general obligation bonds and \$500 million in revenue bonds for the following purposes: \$45 million in general obligation bonds for the development of new or improved products in the state; \$20 million in general obligation bonds to stimulate the development of small business in the state; \$25 million in general obligation bonds to assist agricultural business in the state; and \$500 million in revenue bonds also to assist agricultural business in the state.

The bill would create the Texas Product Development Fund, the Small Business Incubator Fund, and the Texas Agricultural Fund to receive revenue from loan repayments and make debt service payments on general obligation bonds.

It is assumed that the revenue generated from loan repayments would be sufficient to pay the debt service on the general obligation bonds; however, if the revenue is insufficient to pay the debt service, a draw would be made on the General Revenue Fund to fund the difference. It is also assumed that the loan and grant programs created will be self-supporting from loan rates being higher than bond costs, loan origination fees, and investment earnings.

The bill also would allow the Texas Agricultural Finance Authority to establish funds to receive revenue from loan repayments and make debt service payments on revenue bonds. The revenue bonds would be repaid solely from the revenues generated from loans and would not constitute a pledge of the full faith and credit of the State.

Assuming a 20-year payout on the bonds at a 7.5 percent interest rate for general obligation bonds and a 7.75 percent interest rate for revenue bonds, the probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from General Obligation Bonds</u> | <u>Probable Debt Service Payments on General Obligation Bonds</u> |
|------------------------|--|---|
| 1990 | \$3,375,000 | \$3,375,000 |
| 1991 | 8,690,000 | 8,690,000 |
| 1992 | 8,690,000 | 8,690,000 |
| 1993 | 8,690,000 | 8,690,000 |
| 1994 | 8,690,000 | 8,690,000 |

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from Revenue Bonds</u> | <u>Probable Debt Service Payment on Revenue Bonds</u> |
|--------------------|---|---|
| 1990 | \$19,375,000 | \$19,375,000 |
| 1991 | 49,180,000 | 49,180,000 |
| 1992 | 49,180,000 | 49,180,000 |
| 1993 | 49,180,000 | 49,180,000 |
| 1994 | 49,180,000 | 49,180,000 |

| <u>Fiscal Year</u> | <u>Probable Revenue Gain to the Texas Department of Agriculture from Administrative Funds</u> | <u>Probable Operating Cost to the Texas Department of Agriculture</u> | <u>Probable Revenue Gain to the Texas Department of Commerce from Administrative Fees</u> |
|--------------------|---|---|---|
| 1990 | \$89,900 | \$89,900 | \$227,296 |
| 1991 | 83,900 | 83,900 | 222,295 |
| 1992 | 83,900 | 83,900 | 215,295 |
| 1993 | 83,900 | 83,900 | 215,295 |
| 1994 | 83,900 | 83,900 | 215,295 |

| <u>Fiscal Year</u> | <u>Probable Operating Cost to the Texas Department of Commerce</u> | <u>Change in Number of State Employees from FY 1989</u> |
|--------------------|--|---|
| 1990 | \$227,296 | + 6 |
| 1991 | 222,295 | + 6 |
| 1992 | 215,295 | + 6 |
| 1993 | 215,295 | + 6 |
| 1994 | 215,295 | + 6 |

Similar annual fiscal implications would continue through the year 2009. Total payout on the general obligation bonds is estimated to be \$177,108,750 and total payout on the revenue bonds is estimated to be \$1,002,982,752.

No fiscal implication to units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Comptroller of Public Accounts; Bond Review Board;
 Public Finance Authority; Department of Agriculture;
 Department of Commerce;
 LBB Staff: JO, JWH, AL, TB, LV

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 11, 1989

TO: Honorable Al Luna, Chair
Committee on Science and Technology
House of Representatives
Austin, Texas

In Re: House Bill No. 1860
By: Colbert

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1860 (relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would authorize the issuance of \$70 million in general obligation bonds and \$500 million in revenue bonds for the following purposes: \$25 million in general obligation bonds for the development of new or improved products in the state; \$20 million in general obligation bonds to stimulate the development of small business in the state; \$25 million in general obligation bonds to assist agricultural business in the state; and \$500 million in revenue bonds also to assist agricultural business in the state.

The bill would authorize the Department of Commerce to use \$10 million of the general obligation bonds for challenge grants, which would be paid for out of the General Revenue Fund.

The bill would create the Texas Product Development Fund, the Small Business Incubator Fund, and the Texas Agricultural Fund to receive revenue from loan repayments and make debt service payments on general obligation bonds.

It is assumed that the revenue generated from loan repayments would be sufficient to pay the debt service on the general obligation bonds; however, if the revenue is insufficient to pay the debt service, a draw would be made on the General Revenue Fund to fund the difference. It is also assumed that the loan and grant programs created will be self-supporting from loan rates being higher than bond costs, loan origination fees, and investment earnings.

The bill also would allow the Texas Agricultural Finance Authority to establish funds to receive revenue from loan repayments and make debt service payments on revenue bonds. The revenue bonds would be repaid solely from the revenues generated from loans and would not constitute a pledge of the full faith and credit of the State.

Assuming a 20-year payout on the bonds at a 7.5 percent interest rate for general obligation bonds and a 7.75 percent interest rate for revenue bonds, the probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from General Obligation Bonds</u> | <u>Probable Debt Service Payments on General Obligation Bonds</u> |
|------------------------|--|---|
| 1990 | \$2,250,000 | \$2,250,000 |
| 1991 | 5,790,000 | 5,790,000 |
| 1992 | 5,790,000 | 5,790,000 |
| 1993 | 5,790,000 | 5,790,000 |
| 1994 | 5,790,000 | 5,790,000 |

| <u>Fiscal Year</u> | <u>Probable Debt Service Payments Out of the General Revenue Fund</u> | <u>Probable Revenue Gain from Revenue Bonds</u> | <u>Probable Debt Service Payment on Revenue Bonds</u> |
|--------------------|---|---|---|
| 1990 | \$375,000 | \$19,375,000 | \$19,375,000 |
| 1991 | 970,000 | 49,180,000 | 49,180,000 |
| 1992 | 970,000 | 49,180,000 | 49,180,000 |
| 1993 | 970,000 | 49,180,000 | 49,180,000 |
| 1994 | 970,000 | 49,180,000 | 49,180,000 |

Similar annual fiscal implications would continue through the year 2009. Total payout on the general obligation bonds is estimated to be \$137,750,000 and total payout on the revenue bonds is estimated to be \$1,002,982,752.

| <u>Fiscal Year</u> | <u>Probable Revenue Gain to the Texas Department of Agriculture from Administrative Funds</u> | <u>Probable Operating Cost to the Texas Department of Agriculture</u> | <u>Probable Revenue Gain to the Texas Department of Commerce from Administrative Fees</u> |
|--------------------|---|---|---|
| 1990 | \$89,900 | \$89,900 | \$227,296 |
| 1991 | 83,900 | 83,900 | 222,295 |
| 1992 | 83,900 | 83,900 | 215,295 |
| 1993 | 83,900 | 83,900 | 215,295 |
| 1994 | 83,900 | 83,900 | 215,295 |

| <u>Fiscal Year</u> | <u>Probable Operating Cost to the Texas Department of Commerce</u> | <u>Change in Number of State Employees from FY 1989</u> |
|--------------------|--|---|
| 1990 | \$227,296 | + 6 |
| 1991 | 222,295 | + 6 |
| 1992 | 215,295 | + 6 |
| 1993 | 215,295 | + 6 |
| 1994 | 215,295 | + 6 |

No fiscal implication to units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Comptroller of Public Accounts; Bond Review Board;
Public Finance Authority; Department of Agriculture;
Department of Commerce;
LBB Staff: JO, JWH, AL, TB, CKM

ADOPTED

MAY 17 1989

Betty Massey
Chief Clerk
House of Representatives

By Colbert

H.B. 1860

Substitute the following for H.B. 1860:

By *Henry Herrera*

C.S.H.B. 1860

1 A BILL TO BE ENTITLED

2 AN ACT

3 relating to the issuance of bonds and for state financing of
4 the development and production of Texas products and businesses.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter Q Section 481.221 of the Government
7 Code as added by S.B. 223, Acts of the 71st Legislature,
8 Regular Session, 1989, is amended to read as follows:

9 Sec. 481.221. DEFINITIONS. In this subchapter:

10 (1) "Advisory board" means the Product Development
11 Advisory Board.

12 (2)(1) "Executive director" means the executive
13 director of the department or the executive director's designee.

14 (3) "Fund" means the product development fund.

15 (4) "Office" means the Office of Advanced Technology
16 within The Texas Department of Commerce:

17 (5)(2) "Product" means an invention, product, device,
18 technique, or process, without regard to whether a patent has
19 or could be granted, that is or may be exploitable
20 commercially; the term does not refer to pure research but
21 includes products, devices, techniques, or processes that have
22 advanced beyond the theoretical stage and have or are readily
23 capable of having a commercial application.

24 (6)(3) "Venture financing" means revolving loans,

1 loan guarantees, or equity investment from the Texas product
2 development fund to a person for use in the development of new
3 or improved products.

4 SECTION 2. Subchapter Q Section 481.222 of the Government
5 Code as added by S.B. 223, Acts of the 71st Legislature,
6 Regular Session, 1989, is amended to read as follows:

7 Sec. 481.222. TEXAS PRODUCT DEVELOPMENT FUND; VENTURE
8 FINANCING. (a) The Texas product development fund is a
9 revolving fund in the state treasury. The fund consists of
10 money appropriated to the Department, proceeds of bonds issued
11 under this ~~(article)~~ subchapter, application fees, loan
12 repayments, guarantee fees, royalty receipts, dividend income,
13 and other amounts received by the state from loans, loan
14 guarantees, and equity investments made under this subchapter,
15 other amounts received by the state for loans or grants made
16 under this subchapter and money acquired from federal grants or
17 other sources and required by resolution of the board to be
18 deposited in the fund. The fund contains a program account, an
19 interest and sinking account and other accounts that the board
20 authorizes to be created and maintained. Money in the fund is
21 available for use by the department under this ~~(article)~~
22 subchapter.

23 (b) Money in the program account, minus the costs of
24 issuance of bonds under this ~~(article)~~ subchapter and necessary
25 costs of administering the fund, may be used only to provide
26 venture financing to aid in the development and for the
27 commercialization of new or improved products. The department

1 may provide venture financing from the fund for the purposes of
2 designing and constructing new facilities, rehabilitating
3 existing facilities, acquiring any interest in real or personal
4 property, and providing initial working capital to pay the cost
5 of salaries, rent, supplies, inventory, mortgage payments,
6 legal services, utilities, telephone, travel, and other
7 incidental costs normally classified as working capital
8 according to standard accounting principles. The department
9 shall provide venture financing from the fund on the terms and
10 conditions that the department determines to be reasonable,
11 appropriate, and consistent with the purposes and objectives of
12 the fund and this (~~article~~) subchapter for the purpose of
13 financing a new or improved product that is or may be
14 exploitable commercially. The department may provide venture
15 financing only if financing for the product is not otherwise
16 available on reasonable terms.

17 (c) Before approving the provision of venture financing to
18 any person, the department shall enter into an agreement with
19 the person under which the department will obtain an
20 appropriate portion of royalties, patent rights, equitable
21 interests, or a combination of these royalties, rights, and
22 interests, from or in the product or proceeds of the product
23 for which venture financing is requested. Contracts executed
24 under this (~~article~~) subchapter must include agreements to
25 ensure proper use of funds and the receipt of royalties, patent
26 rights, or equity interest, as appropriate.

27 SECTION 3 Subchapter Q Section 481.224 of the Government

1 Code as added by S.B. 223, Acts of the 71st Legislature,
2 Regular Session, 1989, is amended to read as follows:

3 Sec. 481.224 APPLICATION (a) An application for venture
4 financing must be delivered, together with a reasonable
5 application fee prescribed by the department, to the executive
6 director. ~~(who shall conduct an investigation and prepare a~~
7 ~~report concerning the advisability of approving the application~~
8 ~~and concerning other factors considered relevant by the~~
9 ~~department. The executive director's report must include)~~ The
10 application shall contain a business plan, containing such
11 information as required by the department, including at a
12 minimum:

13 (1) information regarding the history and financial
14 condition of the applicant, including the applicant's income
15 statement, information about the applicant's present markets
16 and market prospects and about the integrity of the applicant's
17 management; ~~and~~

18 (2) a statement of the feasibility of the product for
19 which financing is requested, including the state of
20 development of the product and the likelihood of its
21 commercialization~~(-)~~; and

22 (3) a description of attempts to obtain private
23 financing, including documentation verifying such efforts and a
24 clear description of the reasons such financing was denied.

25 (b) The executive director shall determine the following
26 with respect to each application for venture financing:

27 (1) whether the product for which financing is

1 requested is economically sound, and whether there is a
2 reasonable expectation that the product will be successful;

3 (2) whether the product will create or preserve jobs
4 and otherwise benefit the economy of the state;

5 (3) whether the applicant lacks the financial
6 resources to complete the project, and whether venture
7 financing is necessary because financing is unavailable in
8 traditional capital markets or credit has been offered on terms
9 that would preclude the success of the project; and

10 (4) whether there is reasonable assurance that the
11 potential revenues to be derived from the sale of the product
12 will be sufficient to repay any venture financing approved by
13 the department(-,). ~~(and whether, with respect to patents,~~
14 ~~copyrights, and other ownership rights relative to the product,~~
15 ~~there is reasonable assurance that the product will be used to~~
16 ~~the maximum extent possible in facilities located in Texas.)~~

17 (c) The executive director shall submit the report to the
18 department. After considering the report, together with other
19 information that the department considers appropriate, the
20 department shall approve or deny the application for venture
21 financing, and promptly notify the applicant of its decision.

22 SECTION 4 Subchapter Q Section 481.225 of the Government
23 Code as added by S.B. 223, Acts of the 71st Legislature,
24 Regular Session, 1989, is amended to read as follows:

25 Sec. 481.225 INFORMATION CONFIDENTIAL. Information
26 relating to a product, and the application or use of a product,
27 and technological and scientific information, including

1 computer programs, developed in whole or part by an applicant
2 for or recipient of venture financing, is confidential and is
3 not subject to disclosure under state law or otherwise,
4 regardless of whether the product is patentable or capable of
5 being registered under copyright or trademark laws, or has a
6 potential for being sold, traded, or licensed for a fee;
7 however, nothing in this subchapter shall prevent or restrict
8 the Office of Advanced Technology or the advisory board from
9 obtaining information relating to a product or process from an
10 applicant or recipient of a loan under this subchapter.

11 SECTION 5 Subchapter Q of the Government Code as added by
12 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989,
13 is amended by adding Sections 481.226, 481.227, 481.228 and
14 481.229 as follows:

15 Sec. 481.226. ADVISORY BOARD. (a) The Product
16 Development Advisory Board is composed of:

17 (1) one representative of the Texas Higher Education
18 Coordinating Board selected by the Texas Higher Education
19 Coordinating Board; and

20 (2) two persons appointed by the governor;

21 (3) two persons appointed by the lieutenant governor;

22 and

23 (4) two persons appointed by the speaker of the house
24 of representatives.

25 (b) In appointing members of the advisory board, the
26 governor, lieutenant governor, and the speaker of the house
27 shall appoint persons having significant business leadership

1 experience with emerging technologies, particularly experience
2 with the transfer of research results into commercial
3 application.

4 (c) Members of the advisory board serve two-year staggered
5 terms with the terms of four members expiring February 1 of
6 each odd-numbered year and the terms of three members expiring
7 February 1 of each even-numbered year.

8 (d) The governor shall appoint the advisory board's
9 chairman from among its members.

10 (e) The advisory board shall adopt rules establishing
11 limits on the amount of each loan and otherwise governing the
12 terms and conditions of the loans, specifically including
13 requirements for appropriate security or collateral and the
14 rights and remedies of the department in the event of a default
15 on the loan. Such rules shall include a requirement that
16 borrowers shall report to the advisory board on the use of
17 monies distributed through this fund.

18 Sec. 481.227. ELIGIBLE PROJECTS AND BORROWERS. (a) A
19 loan may be made under this subchapter only to finance a
20 project approved by the advisory board and the governing board
21 of the Texas Department of Commerce.

22 (b) In determining eligible projects the advisory board
23 and the board shall give special preference to projects that
24 have the greatest likelihood of commercial success,
25 specifically including but not limited to projects in the areas
26 of biotechnology, biomedicine, energy, materials science,
27 microelectronics, aerospace, marine science, aquaculture,

1 telecommunications, manufacturing science, and other priority
2 research areas as provided in Section 143.003 of the Texas
3 Education Code. The priority research area of agriculture will
4 be funded according to the provisions of Chapter 58, Subchapter
5 D of the Agriculture Code. The advisory board further shall
6 give consideration to: (1) grantees under the small business
7 innovation research program established under 15 U.S.C. Section
8 638; (2) Texas companies formed to commercialize research
9 funded at least in part with state funds; (3) Texas companies
10 receiving assistance from designated state small business
11 development centers.

12 Sec. 481.228. CONSIDERATION IN FINANCING. In determining
13 whether to provide financing under this subchapter, the board
14 shall consider the likelihood of success of the applicant and
15 the effect of the financing on job creation and retention in
16 the state. The board shall give preference to applicants who
17 are Texas residents doing business in the state and performing
18 financed activities predominantly in the state, and then to
19 applicants who can demonstrate that the financed activities
20 will take place predominantly in this state.

21 Sec. 481.229. BONDS. (a) The board may issue up to \$45
22 million of general obligation bonds and may use the proceeds of
23 the bonds to provide venture financing under this subchapter.
24 The board shall deposit the proceeds of the bonds in the Texas
25 product development fund and apply them in accordance with the
26 resolution authorizing the bonds. The Texas product
27 development fund and any accounts established in the fund shall

1 be held in trust by the state treasurer for and on behalf of
2 the department and the owners of the general obligation bonds
3 issued in accordance with this section, and may be used only as
4 provided by this section. Pending use, the treasurer may
5 invest and reinvest money in the product development fund in
6 investments authorized by law for state funds that the
7 treasurer, consistent with the board's resolutions authorizing
8 the bonds, considers appropriate. Repayments of financial
9 assistance provided under this subchapter, together with
10 earnings received on investments of the product development
11 funds, shall be deposited, first, in the interest and sinking
12 account as prescribed by the board's resolutions authorizing
13 bonds under this subchapter, and, second, in any reserve
14 account established by the board until that account is fully
15 funded as prescribed by the board's resolutions. If, during
16 the time any general obligation bonds are payable from the
17 interest and sinking account, the board determines that there
18 will not be sufficient money in the interest and sinking
19 account during the following fiscal year to pay the principal
20 of or interest on the general obligation bonds or both the
21 principal and interest that are to come due during the
22 following fiscal year, the comptroller of public accounts shall
23 transfer to the fund the first money coming into the state
24 treasury not otherwise appropriated by the constitution in an
25 amount sufficient to pay the obligations.

26 (b) The bonds may be issued from time to time in one or
27 more series or issues, in bearer, registered, or any other

1 form, which may include registered uncertificated obligations
2 not represented by written instruments and commonly known as
3 book-entry obligations, the registration of ownership and
4 transfer of which shall be provided for by the board under a
5 system of books and records maintained by the department or by
6 an agent appointed by the board in a resolution providing for
7 issuance of its bonds. Bonds may mature serially or otherwise
8 not more than 40 years from their date. Bonds may bear no
9 interest or may bear interest at any rate or rates, fixed,
10 variable, floating or otherwise, determined by the board or
11 determined pursuant to any contractual arrangements approved by
12 the board, not to exceed the maximum net effective interest
13 rate allowed by Chapter 3, Acts of the 61st Legislature,
14 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
15 Statutes). Interest on the bonds may be payable at any time
16 and the rate of interest on the bonds may be adjusted at any
17 time determined by the board pursuant to the resolutions
18 authorizing the bonds or determined pursuant to any contractual
19 arrangement approved by the board. In connection with the
20 issuance of its bonds, the board may exercise the powers
21 granted to the governing body of an issuer in connection with
22 the issuance of obligations under Chapter 656, Acts of the 68th
23 Legislature. Regular Session, 1983 (Article 717q, Vernon's
24 Texas Civil Statutes), to the extent not inconsistent with this
25 section. The bonds may be issued in the form and denominations
26 and executed in the manner and under the terms, conditions, and
27 details determined by the board in the resolution authorizing

1 their issuance. If any officer whose manual or facsimile
2 signature appears on the bonds ceases to be an officer, the
3 signature remains valid and sufficient for all purposes as if
4 the officer had remained in office.

5 (c) All bonds issued by the board under this section are
6 subject to review and approval by the attorney general in the
7 same manner and with the same effect as is provided by Chapter
8 656, Acts of the 68th Legislature, Regular Session, 1983
9 (Article 717q, Vernon's Texas Civil Statutes).

10 (d) The bonds are a legal and authorized investment for a
11 bank, trust company, savings and loan association, insurance
12 company, fiduciary, trustee, or guardian or a sinking fund of a
13 municipality, county, school district, or political subdivision
14 of the state. The bonds may secure deposits of public funds of
15 the state, a municipality, a county, a school district, or
16 another political corporation or subdivision of the state. The
17 board may issue bonds to refund all or part of its outstanding
18 bonds, including accrued but unpaid interest. The bonds, a
19 transaction relating to the bonds, or a profit made in the sale
20 of the bonds is exempt from taxation by the state, an agency or
21 subdivision of the state, a municipality, or a special district.

22 (e) This section is contingent on the adoption of the
23 constitutional amendment proposed by H.J.R. 70, Acts of the
24 71st Legislature, Regular Session, 1989. If that proposed
25 constitutional amendment is not approved by the voters, this
26 section has no effect.

27 SECTION 6. Section 481.242, Government Code, as added by

1 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989,
2 is amended to read as follows:

3 SEC. 481.242. SMALL BUSINESS INCUBATOR FUND. (a) The
4 small business incubator fund is a revolving fund in the state
5 treasury.

6 (b) Money appropriated to the department, proceeds of
7 bonds issued under this subchapter, application fees, guarantee
8 fees, royalty receipts, dividend income, loan repayments, and
9 other amounts received by the state for loans, loan guarantees,
10 equity in investments, or grants made under this subchapter,
11 and any other money received by the department under this
12 subchapter and required by resolution of the board to be
13 deposited in the fund, including federal funds and the proceeds
14 of any investment pools operated by the Treasurer shall be
15 deposited to the credit of the fund. Appropriated money in the
16 fund may be applied and reapplied to the purposes of this
17 subchapter. (V.A.C.S. Art. 4413(301), Sec. 16.012.)

18 SECTION 7. Subchapter R, Chapter 481, Government Code as
19 added by S.B. 223, Acts of the 71st Legislature, Regular
20 Session, 1989, is amended by adding Sections 481.244, 481.245,
21 and 481.246 to read as follows:

22 Sec. 481.244. INVESTMENT POOLS. The department shall
23 develop programs encouraging the creation of local investment
24 pools to assist with the financing of businesses emerging from
25 the incubator.

26 Sec. 481.245. BONDS. (a) The board may issue up to \$20
27 million of general obligation bonds and may use the proceeds,

1 less the costs of issuance of the bonds, to carry out the small
2 business incubator program in accordance with the resolution
3 authorizing the bonds. The board shall deposit the proceeds of
4 the bonds in the small business incubator fund and apply them
5 in accordance with the resolution authorizing the bonds. The
6 small business incubator fund and any accounts established in
7 the fund shall be held in trust by the state treasurer for and
8 on behalf of the department and the owners of the general
9 obligation bonds issued in accordance with this section, and
10 may be used only as provided by this subchapter. Pending use,
11 the treasurer may invest and reinvest money in the small
12 business incubator fund in investments authorized by law for
13 state funds that the treasurer, consistent with the board's
14 resolutions authorizing the bonds, considers appropriate.
15 Repayments of financial assistance provided under this
16 subchapter, together with earnings received on investments of
17 the small business incubator fund, shall be deposited, first,
18 in the interest and sinking account as prescribed by the
19 board's resolutions authorizing bonds under this article, and,
20 second, in any reserve account established by the board until
21 that account is fully funded as prescribed by the board's
22 resolutions. If, during the time any general obligation bonds
23 are payable from the interest and sinking account, the board
24 determines that there will not be sufficient money in the
25 interest and sinking account during the following fiscal year
26 to pay the principal of or interest on the general obligation
27 bonds or both the principal and interest that are to come due

1 during the following fiscal year, the comptroller of public
2 accounts shall transfer to the fund the first money coming into
3 the state treasury not otherwise appropriated by the
4 constitution in an amount sufficient to pay the obligations.

5 (b) The bonds may be issued from time to time in one or
6 more series or issues, in bearer, registered, or any other
7 form, which may include registered uncertificated obligations
8 not represented by written instruments and commonly known as
9 book-entry obligations, the registration of ownership and
10 transfer of which shall be provided for by the board under a
11 system of books and records maintained by the department or by
12 an agent appointed by the board in a resolution providing for
13 issuance of its bonds. Bonds may mature serially or otherwise
14 not more than 40 years from their date. Bonds may bear no
15 interest or may bear interest at any rate or rates, fixed,
16 variable, floating, or otherwise, determined by the board or
17 determined pursuant to any contractual arrangements approved by
18 the board, not to exceed the maximum net effective interest
19 rate allowed by Chapter 3, Acts of the 61st Legislature,
20 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
21 Statutes). Interest on the bonds may be payable at any time
22 and the rate of interest on the bonds may be adjusted at any
23 time determined by the board pursuant to the resolutions
24 authorizing the bonds or determined pursuant to any contractual
25 arrangement approved by the board. In connection with the
26 issuance of its bonds, the board may exercise the powers
27 granted to the governing body of an issuer in connection with

1 the issuance of obligations under Chapter 656, Acts of the 68th
2 Legislature, Regular Session, 1983 (Article 717q, Vernon's
3 Texas Civil Statutes), to the extent not inconsistent with this
4 section. The bonds may be issued in the form and denominations
5 and executed in the manner and under the terms, conditions, and
6 details determined by the board in the resolution authorizing
7 their issuance. If any officer whose manual or facsimile
8 signature remains valid and sufficient for all purposes as if
9 the officer had remained in office.

10 (c) All bonds issued by the board under this section are
11 subject to review and approval by the attorney general in the
12 same manner and with the same effect as is provided by Chapter
13 656, Acts of the 68th Legislature, Regular Session, 1983
14 (Article 717q, Vernon's Texas Civil Statutes).

15 (d) The bonds are a legal and authorized investment for a
16 bank, trust company, savings and loan association, insurance
17 company, fiduciary, trustee, or guardian or a sinking funds of
18 a municipality, county, school district, or political
19 subdivision of the state. The bonds may secure deposits of
20 public funds of the state, a municipality, a county, a school
21 district, or another political corporation or subdivision of
22 the state. The department may issue bonds to refund all or
23 part of its outstanding bonds, including accrued but unpaid
24 interest. The bonds, a transaction relating to the bonds, or a
25 profit made in the sale of the bonds is exempt from taxation by
26 the state, an agency or subdivision of the state, a
27 municipality, or a special district.

1 (e) This section is contingent on the adoption of the
2 constitutional amendment proposed by H.J.R. 70, Acts of the
3 71st Legislature, Regular Session, 1989. If that proposed
4 constitutional amendment is not approved by the voters, this
5 section has no effect.

6 Sec. 481.246. CONSIDERATIONS IN FINANCING. In determining
7 whether to provide financing under this subchapter, the board
8 shall consider the likelihood of success of the applicant and
9 the effect of the financing on job creation and retention in
10 the state. The board shall give preference to applicants who
11 are Texas residents doing business in the state, and then to
12 applicants who can demonstrate that the financed activities
13 will take place predominantly in this state.

14 SECTION 8. Chapter 58, Agriculture Code, is amended by
15 adding Subchapter D to read as follows:

16 SUBCHAPTER D. BONDS

17 Sec. 58.031. ISSUANCE OF GENERAL OBLIGATION BONDS. (a)
18 The board by resolution may provide for the issuance of up to
19 \$25 million of general obligation bonds as authorized by the
20 Texas Constitution. The bonds shall be on a parity. The
21 authority may issue bonds in one or several installments.
22 Before authorizing the issuance of any general obligation
23 bonds, the board must find that the issuance of revenue bonds
24 was not an economically advisable alternative for carrying out
25 this chapter.

26 (b) Proceeds of the bonds shall be deposited in the Texas
27 agricultural fund and applied in accordance with the resolution

1 authorizing the bonds:

2 (1) to provide financial assistance to eligible
3 agricultural businesses;

4 (2) to pay costs of issuance of those bonds and the
5 administration of any financial assistance program established
6 with money in the Texas agricultural fund; and

7 (3) together with any other available funds, to pay
8 the principal of or interest on or to discharge or redeem, in
9 whole or in part, any outstanding bonds issued by the authority.

10 Sec. 58.032. TEXAS AGRICULTURAL FUND. (a) The Texas
11 agricultural fund is a fund in the state treasury.

12 (b) The Texas agricultural fund may, at the direction of
13 the board, receive from the state or federal government or from
14 any other person, money that is to be administered by the
15 authority in connection with the provision of financial
16 assistance to eligible agricultural businesses, including those
17 businesses engaged in the application of biotechnology to
18 agriculture, under any program funded in whole or in part with
19 the proceeds of general obligation bonds issued to carry out
20 the purpose of this chapter.

21 (c) The board may provide for the establishment and
22 maintenance of separate accounts within the Texas agricultural
23 fund, including program accounts as prescribed by the board, an
24 interest and sinking account, a reserve account, and other
25 accounts provided for by the board in its resolutions.
26 Repayments of financial assistance under any program funded in
27 whole or in part with the proceeds of any series of general

1 obligation bonds shall be deposited first in the interest and
2 sinking account as prescribed by the board's resolutions
3 authorizing such series of general obligation bonds, and second
4 in the reserve account in respect of such series of general
5 obligation bonds until that account is fully funded as
6 prescribed by the board's resolutions. The fund and all
7 accounts within it shall be kept and maintained at the
8 direction of the board and held in trust by the state treasurer
9 for and on behalf of the authority and the owners of the
10 general obligation bonds issued in accordance with this
11 chapter, and may be used only as provided by this chapter.
12 Pending its use, money in the fund shall be invested as
13 prescribed by the resolution by which the bonds were issued.

14 (d) To the extent the board determines that any money
15 credited to the Texas agricultural fund from repayments of
16 financial assistance is not required by Subsection (c) of this
17 section and the resolutions of the board to be held in the
18 interest and sinking account or reserve account to provide for
19 the payment of the principal of and interest on the outstanding
20 general obligation bonds issued by the authority, that money
21 may be used by the authority to pay the principal of and
22 interest on revenue bonds issued by the authority or for any
23 other authorized purpose of the authority, in accordance with
24 this chapter and the authority's resolutions authorizing
25 general obligation bonds.

26 (e) If during the existence of the Texas agricultural fund
27 or during the time any general obligation bonds are payable

1 from the fund the board determines that there will not be
2 sufficient money in the interest and sinking account during the
3 following fiscal year to pay the principal of or interest on
4 the general obligation bonds or both the principal and interest
5 that are to come due during the following fiscal year, the
6 comptroller of public accounts shall transfer to the fund the
7 first money coming into the state treasury not otherwise
8 appropriated by the constitution in an amount sufficient to pay
9 the obligations.

10 (f) The department may receive, and shall deposit in the
11 Texas agricultural fund, appropriations, grants, donations,
12 earned federal funds, and the proceeds of any investment pools
13 operated by the treasurer. The Texas product development fund
14 shall operate as a revolving fund the contents of which may be
15 applied and reapplied to the purposes of this chapter.

16 Sec. 58.033. ISSUANCE OF REVENUE BONDS. (a) In addition
17 to the authority to issue general obligation bonds, the
18 authority may issue not more than \$500 million of revenue bonds
19 for the purpose of the authority under this chapter. The
20 authority shall establish and maintain funds and accounts, in
21 accordance with Subsection (d) of this section, that the board
22 considers necessary to ensure payment of the bonds and to
23 provide for the use of the bond proceeds and the implementation
24 of the program financed. Proceeds of revenue bonds shall be
25 applied in accordance with the resolution authorizing those
26 bonds:

27 (1) to provide financial assistance to eligible

1 agricultural businesses;

2 (2) to pay costs of issuance of those bonds and the
3 administration of any financial assistance program established
4 by the authority; and

5 (3) together with any other available funds, to pay
6 the principal of or interest on or to discharge or redeem, in
7 whole or in part, any outstanding bonds issued by the authority.

8 (b) The authority's revenue bonds are obligations solely of
9 the authority and are payable solely from funds of the
10 authority that are pledged to the repayment of the revenue
11 bonds. The authority may not use, except as provided in
12 Section 58.032, or pledge money in the Texas agricultural fund
13 to repayment of its revenue bonds. The authority's bonds are
14 not and do not create or constitute a pledge, giving, or
15 lending of the faith or credit or taxing power of the state.
16 Each bond of the authority issued under this section must
17 contain a statement to the effect that the state is not
18 obligated to pay the principal of or any premium or interest on
19 the bond, and that neither the faith or credit nor the taxing
20 power of the state is pledged, given, or loaned to such a
21 payment.

22 (c) Revenue bonds of the authority shall be payable as to
23 principal, interest, and redemption premium, if any, from and
24 secured by a first lien or a subordinate lien on and pledge of
25 all or any part of the property, revenues, income, or other
26 resources of the authority, as specified in the board's
27 resolution authorizing issuance of those bonds, including

1 mortgages or other interests in property financed, with the
2 proceeds of such bonds, repayments of financial assistance,
3 earnings from investments or deposits of the bonds of the
4 authority, fees, charges, and any other amounts or payments
5 received pursuant to this chapter, and any appropriations,
6 grants, allocations, subsidies, supplements, guaranties, aid,
7 contribution, or donations from the state or federal government
8 or any other person.

9 (d) The board may make additional covenants with respect to
10 the bonds and the pledged revenues and may provide for the flow
11 of funds, the establishment and maintenance and investment of
12 funds, which may include interest and sinking funds, reserve
13 funds, program funds, and other funds. Those funds shall be
14 kept and maintained in escrow and in trust by the state
15 treasurer for and on behalf of the authority and the owners of
16 its revenue bonds, in funds held outside the treasury pursuant
17 to Section 3.051, Treasury Act (Article 4393-1, Vernon's Texas
18 Civil Statutes). Those funds shall be used only as provided by
19 this chapter, and pending their use shall be invested as
20 provided by any resolution of the authority. Legal title to
21 those funds shall be in the authority unless or until paid out
22 as provided by this chapter or by the resolutions authorizing
23 the authority's bonds. The state treasurer, as custodian,
24 shall administer those funds strictly and only as provided by
25 this chapter and in those resolutions. The treasurer shall
26 invest the funds in investments authorized by law for state
27 funds. The state shall take no action with respect to those

1 funds other than that specified in this chapter and in those
2 resolutions.

3 (e) The board may provide in the resolution authorizing any
4 revenue bonds for the issuance of additional bonds to be
5 equally and ratably secured by lien on the revenues and
6 receipts, or for the issuance of subordinate lien bonds.

7 Sec. 58.034. GENERAL PROVISIONS RELATING TO BONDS.

8 (a) The authority's bonds may be issued from time to time in
9 one or more series or issues, in bearer, registered, or any
10 other form, which may include registered uncertified
11 obligations not represented by written instruments and commonly
12 known as book-entry obligations, the registration of ownership
13 and transfer of which shall be provided for by the authority
14 under a system of books and records maintained by the authority
15 or by an agent appointed by the authority in resolution
16 providing for issuance of its bonds. Bonds may mature serially
17 or otherwise not more than 40 years from their date. Bonds may
18 bear no interest or may bear interest at any rate or rates,
19 fixed, variable, floating, or otherwise, determined by the
20 board or determined pursuant to any contractual arrangements
21 approved by the board, not to exceed the maximum net effective
22 interest rate allowed by Chapter 3, Acts of the 61st
23 Legislature, Regular Session, 1969 (Article 717k-2, Vernon's
24 Texas Civil Statutes). Interest on the bonds may be payable at
25 any time, and the rate of interest on the bonds may be adjusted
26 at such time as may be determined by the board or as may be
27 determined pursuant to any contractual arrangement approved by

1 the board. In connection with the issuance of its bonds, the
2 board may exercise the powers granted to the governing body of
3 an issuer in connection with the issuance of obligations under
4 Chapter 656, Acts of the 68th Legislature, Regular Session,
5 1983 (Article 717q, Vernon's Texas Civil Statutes), to the
6 extent not inconsistent with this chapter.

7 (b) The bonds issued under this chapter and interest
8 coupons, if any, are investment securities under the terms of
9 Chapter 8, Business & Commerce Code. The bonds are exempt
10 securities under The Securities Act (Article 581-1 et seq.,
11 Vernon's Texas Civil Statutes), and unless specifically
12 provided otherwise, under any subsequently enacted securities
13 act. Any contract, guaranty, or any other document executed in
14 connection with the issuance of bonds pursuant to this chapter
15 is not a security under The Securities Act (Article 581-1 et
16 seq., Vernon's Texas Civil Statutes), and, unless specifically
17 provided otherwise, any subsequently enacted securities act.
18 The board is authorized to do all things necessary to qualify
19 the bonds for offer and sale under the securities laws and
20 regulations of the United States and of the states and other
21 jurisdictions in the United States as the board shall determine.

22 (c) The bonds may be issued in the form and denominations
23 and executed in the manner and under the terms, conditions, and
24 details determined as provided by the board in the resolution
25 authorizing their issuance. If any officer whose manual or
26 facsimile signature appears on the bonds ceases to be an
27 officer, the signature is still valid and sufficient for all

1 purposes as if the officer had remained in office.

2 (d) All bonds issued by the authority are subject to review
3 and approval by the attorney general in the same manner and
4 with the same effect as is provided by Chapter 656, Acts of
5 the 68th Legislature, Regular Session, 1983 (Article 717q,
6 Vernon's Texas Civil Statutes).

7 (e) No fee may be charged by any other agency of this state
8 in connection with the issuance of the bonds or the allocation
9 of a portion of the state volume limitation on private activity
10 bonds either under executive order or legislative enactment.
11 No proceeding, notice, or approval is required for the issuance
12 of any bonds or any instrument as security except as provided
13 by this Act. Nothing in this subsection may be constituted to
14 deprive the state and its governmental subdivisions of their
15 respective police powers or to impair any police power of any
16 official or agency of the state or its subdivisions as may be
17 provided by law.

18 (f) The state pledges to and agrees with the owners of any
19 bonds issued in accordance with this chapter that the state
20 will not limit or alter the rights vested in the authority to
21 fulfill the terms of any agreements made with the owners of the
22 bonds or in any way impair the rights and remedies of those
23 owners until those bonds, together with any premium and the
24 interest on the bonds and all costs and expenses in connection
25 with any action or proceeding by or on behalf of those owners,
26 are fully met and discharged. The authority is authorized to
27 include this pledge and agreement of the state in any agreement

1 with the owners of those bonds.

2 (g) The bonds may be sold at public or private sale with or
3 without public bidding in the manner, at such rate or rates,
4 price or prices, and on such terms as may be determined by the
5 board or determined as provided in any contractual arrangement
6 approved by the board. The board also may enter into any
7 contractual arrangement under which the bonds are to be sold
8 from time to time, or subject to purchase, at such prices and
9 rates, interest rate or payment periods, and terms as
10 determined pursuant to that contractual arrangement approved by
11 the board.

12 (h) Pending the preparation of definitive bonds, interim
13 receipts or certificates in the form and with the provisions
14 that are provided in the resolution may be issued to the
15 purchaser or purchasers of bonds sold under this chapter.

16 (i) The board may provide procedures for the replacement of
17 a mutilated, lost, stolen, or destroyed bond or interest coupon.

18 (j) The resolutions of the board issuing bonds may contain
19 other provisions and covenants as the board may determine.

20 (k) The board may adopt and have executed any other
21 proceedings or instruments necessary and convenient in the
22 issuance of bonds.

23 (l) The authority may not issue bonds after August 31, 1993.

24 Sec. 58.035. REFUNDING BONDS. The authority may issue,
25 sell, and deliver bonds to refund all or any part of its
26 outstanding bonds, including the payment of any redemption
27 premium and interest accrued, under such terms, conditions, and

1 details as determined by the board. Bonds issued by the
2 authority may be refunded in the manner provided by any other
3 applicable statute, including Chapter 503, Acts of the 54th
4 Legislature, Regular Session, 1955 (Article 717k, Vernon's
5 Texas Civil Statutes), and Chapter 784, Acts of the 61st
6 Legislature, Regular Session, 1969 (Article 717k-3, Vernon's
7 Texas Civil Statutes). Bonds, the provision for the payment of
8 all interest and applicable premiums on which and the principal
9 of which has been made through the irrevocable deposit of money
10 with the treasurer in accordance with the provisions of such an
11 applicable statute, shall no longer be charged against the
12 issuing authority of the authority, and on the making of such
13 provision such issuing authority shall, to the extent of the
14 principal amount of such bonds, be restored.

15 Sec. 58.036. PAYMENT ENFORCEABLE BY MANDAMUS. Payment of
16 the bonds and performance by the authority or the commissioner
17 of its or his functions and duties under this chapter and the
18 Texas Constitution may be enforced in the state supreme court
19 by mandamus or other appropriate proceeding.

20 Sec. 58.037. BONDS AS INVESTMENTS. (a) The bonds are
21 legal and authorized investments for:

22 (1) banks;

23 (2) trust companies;

24 (3) savings and loan associations;

25 (4) insurance companies of all kinds and types;

26 (5) fiduciaries;

27 (6) trustees;

1 (7) guardians; and

2 (8) sinking and other public funds of the state,
3 municipalities, counties, school districts, and other political
4 subdivisions of the state.

5 (b) The bonds are eligible to secure the deposit of any
6 public funds of the state, municipalities, counties, school
7 districts, or other political subdivisions of the state, and
8 the bonds shall be lawful and sufficient security for the
9 deposits to the extent of their face value when accompanied by
10 all unmatured coupons attached to the bonds.

11 Sec. 58.038. TAX STATUS OF BONDS. The bonds issued by the
12 authority, any transaction relating to the bonds, and any
13 profits made in the sale of the bonds are free from taxation by
14 the state or by any city, county, special district, or other
15 political subdivision of the state; provided that this section
16 does not exempt the owner of any property financed under this
17 chapter from any ad valorem, sales, use, excise, or other tax
18 levied by the state or any political corporation of this state.

19 Sec. 58.039. REVIEW. Bonds may not be issued under this
20 chapter, and proceeds of bonds under this chapter may not be
21 used to finance a program unless the issuance of program, as
22 applicable, has been reviewed and approved by the review board.

23 Sec. 58.040. CONSIDERATIONS IN FINANCING. In determining
24 whether to provide financing under this chapter, the board
25 shall consider the likelihood of success of the applicant and
26 the effect of the financing on job creation and retention in
27 the state. The board shall give preference to applicants who

1 are Texas residents doing business in the state, and then to
2 applicants who can demonstrate that the financed activities
3 will take place predominantly in this state.

4 Sec. 58.041. The provisions of this section authorizing
5 the issuance of general obligation bonds are contingent on
6 adoption of the constitutional amendment proposed by H.J.R. No.
7 70, 71st Legislature, Regular Session, 1989. If that amendment
8 is not approved by the voters, those provisions have no effect.

9 SECTION 9. The importance of this legislation and the
10 crowded condition of the calendars in both houses create an
11 emergency and an imperative public necessity that the
12 constitutional rule requiring bills to be read on three several
13 days in each house be suspended, and this rule is hereby
14 suspended.

89 MAY 18 AM 4:59
HOUSE OF REPRESENTATIVES

ENGROSSED
SECOND READING

By Colbert

H.B. No. 1860

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.221, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.221. DEFINITIONS. In this subchapter:

(1) "Advisory board" means the Product Development Advisory Board.

(2) [~~1~~] "Executive director" means the executive director of the department or the executive director's designee.

(3) "Fund" means the product development fund.

(4) "Office" means the Office of Advanced Technology within the Texas Department of Commerce.

(5) [~~2~~] "Product" means an invention, product, device, technique, or process, without regard to whether a patent has or could be granted, that is or may be exploitable commercially. The term does not refer to pure research but includes products, devices, techniques, or processes that have advanced beyond the theoretical stage and have or are readily capable of having a commercial application.

(6) [~~3~~] "Venture financing" means a revolving loan, loan guarantee, or equity investment from the Texas product

1 development fund to a person for use in the development of new or
2 improved products.

3 SECTION 2. Section 481.222, Government Code, as added by
4 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
5 amended to read as follows:

6 Sec. 481.222. TEXAS PRODUCT DEVELOPMENT FUND; VENTURE
7 FINANCING. (a) The Texas product development fund is a revolving
8 fund in the state treasury. The fund consists of money
9 appropriated to the department, proceeds of bonds issued under this
10 subchapter, application fees, loan repayments, guarantee fees,
11 royalty receipts, dividend income, and other amounts received by
12 the state from loans, loan guarantees, and equity investments made
13 under this subchapter, other amounts received by the state for
14 loans or grants made under this subchapter, and money acquired from
15 federal grants or other sources and required by resolution of the
16 board to be deposited in the fund. The fund contains a program
17 account, an interest and sinking account, and other accounts that
18 the board authorizes to be created and maintained. Money in the
19 fund is available for use by the department under this subchapter.

20 (b) Money in the program account, minus the costs of
21 issuance of bonds under this subchapter and necessary costs of
22 administering the fund, may be used only to provide venture
23 financing to aid in the development and for the commercialization
24 of new or improved products. The department may provide venture
25 financing from the fund for the purposes of designing and
26 constructing new facilities, rehabilitating existing facilities,
27 acquiring any interest in real or personal property, and providing

1 initial working capital to pay the cost of salaries, rents,
2 supplies, inventories, mortgage payments, legal services, and
3 utilities and telephone, travel, and other incidental costs
4 normally classified as working capital according to standard
5 accounting principles. The department shall provide venture
6 financing from the fund on the terms and conditions that the
7 department determines to be reasonable, appropriate, and consistent
8 with the purposes and objectives of the fund and this subchapter
9 for the purpose of financing a new or improved product that is or
10 may be exploitable commercially. The department may provide
11 venture financing only if financing for the product being developed
12 is not otherwise available on reasonable terms.

13 (c) Before approving the provision of venture financing to a
14 person, the department shall enter into an agreement with the
15 person under which the department will obtain an appropriate
16 portion of royalties, patent rights, equitable interests, or a
17 combination of those royalties, rights, and interests from or in
18 the product or proceeds of the product for which venture financing
19 is requested. Contracts executed under this subchapter must
20 include agreements to ensure proper use of funds and the receipt of
21 royalties, patent rights, or equity interest, as appropriate.

22 SECTION 3. Section 481.224, Government Code, as added by
23 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
24 amended to read as follows:

25 Sec. 481.224. APPLICATION. (a) An application for venture
26 financing must be delivered, together with a reasonable application
27 fee prescribed by the department, to the executive director. The

1 application shall contain a business plan, containing such
2 information as required by the department, including at a minimum[7
3 ~~who--shall-conduct-an-investigation-and-prepare-a-report-concerning~~
4 ~~the-advisability-of-approving-the-application-and-concerning--other~~
5 ~~factors--considered--relevant--by--the--department:---The-executive~~
6 ~~director's-report-must-include]:~~

7 (1) information regarding the history and financial
8 condition of the applicant, including the applicant's income
9 statement, and information about the applicant's present markets
10 and market prospects and about the integrity of the applicant's
11 management; [and]

12 (2) a statement of the feasibility of the product for
13 which financing is requested, including the state of development of
14 the product and the likelihood of its commercialization; and[7]

15 (3) a description of attempts to obtain private
16 financing, including documentation verifying such efforts and a
17 clear description of the reasons such financing was denied.

18 (b) The [For-each-application,7-the] executive director shall
19 [also] determine the following with respect to each application for
20 venture financing [whether]:

21 (1) whether the product for which financing is
22 requested is economically sound, and whether[7--(2)] there is a
23 reasonable expectation that the product will be successful;

24 (2) whether [(3)] the product will create or preserve
25 jobs and otherwise benefit the economy of the state;

26 (3) whether [(4)] the applicant lacks the financial
27 resources to complete the project, and whether[7-(5)] venture

financing is necessary because financing is unavailable in traditional capital markets or credit has been offered on terms that would preclude the success of the project; and

(4) whether [~~(6)~~] there is reasonable assurance that the potential revenues to be derived from the sale of the product will be sufficient to repay any venture financing approved by the department [~~(7) and (7) with respect to patents, copyrights, and other ownership--rights--relative--to--the--product,--there-is-reasonable assurance-that-the-product-will--be--used--to--the--maximum--extent possible-in-facilities-located-in-this-state~~].

(c) The executive director shall submit the report to the department. After considering the report, together with [~~and~~] other information that the department considers appropriate, the department shall approve or deny the application for venture financing and promptly notify the applicant of its [~~the~~] decision.

SECTION 4. Section 481.225, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.225. INFORMATION CONFIDENTIAL. Information relating to a product, and the application or use of a product, and technological and scientific information, including computer programs, developed in whole or part by an applicant for or a recipient of venture financing, is confidential and is not subject to disclosure under state law or otherwise, regardless of whether the product is patentable or capable of being registered under copyright or trademark laws, or has a potential for being sold, traded, or licensed for a fee; however, nothing in this subchapter

1 shall prevent or restrict the Office of Advanced Technology or the
2 advisory board from obtaining information relating to a product or
3 process from an applicant or recipient of a loan under this
4 subchapter.

5 SECTION 5. Subchapter Q, Chapter 481, Government Code, as
6 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
7 1989, is amended by adding Sections 481.226, 481.227, 481.228, and
8 481.229 to read as follows:

9 Sec. 481.226. ADVISORY BOARD. (a) The Product Development
10 Advisory Board is composed of:

11 (1) one representative of the Texas Higher Education
12 Coordinating Board selected by the Texas Higher Education
13 Coordinating Board;

14 (2) two persons appointed by the governor;

15 (3) two persons appointed by the lieutenant governor;

16 and

17 (4) two persons appointed by the speaker of the house
18 of representatives.

19 (b) In appointing members of the advisory board, the
20 governor, lieutenant governor, and speaker of the house shall
21 appoint persons having significant business leadership experience
22 with emerging technologies, particularly experience with the
23 transfer of research results into commercial application.

24 (c) Members of the advisory board serve two-year staggered
25 terms with the terms of four members expiring February 1 of each
26 odd-numbered year and the terms of three members expiring February
27 1 of each even-numbered year.

1 (d) The governor shall appoint the advisory board's chairman
2 from among its members.

3 (e) The advisory board shall adopt rules establishing limits
4 on the amount of each loan and otherwise governing the terms and
5 conditions of the loans, specifically including requirements for
6 appropriate security or collateral and the rights and remedies of
7 the department in the event of a default on the loan. Such rules
8 shall include a requirement that borrowers shall report to the
9 advisory board on the use of money distributed through this fund.

10 Sec. 481.227. ELIGIBLE PROJECTS AND BORROWERS. (a) A loan
11 may be made under this subchapter only to finance a project
12 approved by the advisory board and the governing board of the Texas
13 Department of Commerce.

14 (b) In determining eligible projects the advisory board and
15 the board shall give special preference to projects that have the
16 greatest likelihood of commercial success, specifically including
17 but not limited to projects in the areas of biotechnology,
18 biomedicine, energy, materials science, microelectronics,
19 aerospace, marine science, aquaculture, telecommunications,
20 manufacturing science, and other priority research areas as
21 provided in Section 143.003 of the Education Code. The priority
22 research area of agriculture will be funded according to the
23 provisions of Subchapter D, Chapter 58, of the Agriculture Code.
24 The advisory board further shall give consideration to: (1)
25 grantees under the small business innovation research program
26 established under 15 U.S.C. Section 638; (2) Texas companies
27 formed to commercialize research funded at least in part with state

1 funds; and (3) Texas companies receiving assistance from
2 designated state small business development centers.

3 Sec. 481.228. CONSIDERATION IN FINANCING. In determining
4 whether to provide financing under this subchapter, the board shall
5 consider the likelihood of success of the applicant and the effect
6 of the financing on job creation and retention in the state. The
7 board shall give preference to applicants who are Texas residents
8 doing business in the state and performing financed activities
9 predominantly in the state, and then to applicants who can
10 demonstrate that the financed activities will take place
11 predominantly in this state.

12 Sec. 481.229. BONDS. (a) The board may issue up to \$45
13 million of general obligation bonds and may use the proceeds of the
14 bonds to provide venture financing under this subchapter. The
15 board shall deposit the proceeds of the bonds in the Texas product
16 development fund and apply them in accordance with the resolution
17 authorizing the bonds. The Texas product development fund and any
18 accounts established in the fund shall be held in trust by the
19 state treasurer for and on behalf of the department and the owners
20 of the general obligation bonds issued in accordance with this
21 section, and may be used only as provided by this section. Pending
22 use, the treasurer may invest and reinvest money in the product
23 development fund in investments authorized by law for state funds
24 that the treasurer, consistent with the board's resolutions
25 authorizing the bonds, considers appropriate. Repayments of
26 financial assistance provided under this subchapter, together with
27 earnings received on investments of the product development funds,

1 shall be deposited, first, in the interest and sinking account as
2 prescribed by the board's resolutions authorizing bonds under this
3 subchapter, and, second, in any reserve account established by the
4 board until that account is fully funded as prescribed by the
5 board's resolutions. If, during the time any general obligation
6 bonds are payable from the interest and sinking account, the board
7 determines that there will not be sufficient money in the interest
8 and sinking account during the following fiscal year to pay the
9 principal of or interest on the general obligation bonds or both
10 the principal and interest that are to come due during the
11 following fiscal year, the comptroller of public accounts shall
12 transfer to the fund the first money coming into the state treasury
13 not otherwise appropriated by the constitution in an amount
14 sufficient to pay the obligations.

15 (b) The bonds may be issued from time to time in one or more
16 series or issues, in bearer, registered, or any other form, which
17 may include registered uncertificated obligations not represented
18 by written instruments and commonly known as book-entry
19 obligations, the registration of ownership and transfer of which
20 shall be provided for by the board under a system of books and
21 records maintained by the department or by an agent appointed by
22 the board in a resolution providing for issuance of its bonds.
23 Bonds may mature serially or otherwise not more than 40 years from
24 their date. Bonds may bear no interest or may bear interest at any
25 rate or rates, fixed, variable, floating, or otherwise, determined
26 by the board or determined pursuant to any contractual arrangements
27 approved by the board, not to exceed the maximum net effective

1 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
2 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
3 Statutes). Interest on the bonds may be payable at any time and
4 the rate of interest on the bonds may be adjusted at any time
5 determined by the board pursuant to the resolutions authorizing the
6 bonds or determined pursuant to any contractual arrangement
7 approved by the board. In connection with the issuance of its
8 bonds, the board may exercise the powers granted to the governing
9 body of an issuer in connection with the issuance of obligations
10 under Chapter 656, Acts of the 68th Legislature, Regular Session,
11 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent
12 not inconsistent with this section. The bonds may be issued in the
13 form and denominations and executed in the manner and under the
14 terms, conditions, and details determined by the board in the
15 resolution authorizing their issuance. If any officer whose manual
16 or facsimile signature appears on the bonds ceases to be an
17 officer, the signature remains valid and sufficient for all
18 purposes as if the officer had remained in office.

19 (c) All bonds issued by the board under this section are
20 subject to review and approval by the attorney general in the same
21 manner and with the same effect as is provided by Chapter 656, Acts
22 of the 68th Legislature, Regular Session, 1983 (Article 717q,
23 Vernon's Texas Civil Statutes).

24 (d) The bonds are a legal and authorized investment for a
25 bank, trust company, savings and loan association, insurance
26 company, fiduciary, trustee, or guardian or sinking fund of a
27 municipality, county, school district, or political subdivision of

1 the state. The bonds may secure deposits of public funds of the
 2 state, a municipality, a county, a school district, or another
 3 political corporation or subdivision of the state. The board may
 4 issue bonds to refund all or part of its outstanding bonds,
 5 including accrued but unpaid interest. The bonds, a transaction
 6 relating to the bonds, or a profit made in the sale of the bonds is
 7 exempt from taxation by the state, an agency or subdivision of the
 8 state, a municipality, or a special district.

9 (e) This section is contingent on the adoption of the
 10 constitutional amendment proposed by H.J.R. 70, Acts of the 71st
 11 Legislature, Regular Session, 1989. If that proposed
 12 constitutional amendment is not approved by the voters, this
 13 section has no effect.

14 SECTION 6. Section 481.242, Government Code, as added by
 15 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
 16 amended to read as follows:

17 Sec. 481.242. SMALL BUSINESS INCUBATOR FUND. (a) The small
 18 business incubator fund is a revolving fund in the state treasury.

19 (b) Money appropriated to the department, proceeds of bonds
 20 issued under this subchapter, application fees, guarantee fees,
 21 royalty receipts, dividend income, loan repayments, and other
 22 amounts received by the state for loans, loan guarantees, equity in
 23 investments, or grants made under this subchapter, and any other
 24 money received by the department under this subchapter and required
 25 by resolution of the board to be deposited in the fund, including
 26 federal funds and the proceeds of any investment pools operated by
 27 the treasurer shall be deposited to the credit of the fund.

1 Appropriated money in the fund may be applied and reapplied to the
2 purposes of this subchapter.

3 SECTION 7. Subchapter R, Chapter 481, Government Code, as
4 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
5 1989, is amended by adding Sections 481.244, 481.245, and 481.246
6 to read as follows:

7 Sec. 481.244. INVESTMENT POOLS. The department shall
8 develop programs encouraging the creation of local investment pools
9 to assist with the financing of businesses emerging from the
10 incubator.

11 Sec. 481.245. BONDS. (a) The board may issue up to \$20
12 million of general obligation bonds and may use the proceeds, less
13 the costs of issuance of the bonds, to carry out the small business
14 incubator program in accordance with the resolution authorizing the
15 bonds. The board shall deposit the proceeds of the bonds in the
16 small business incubator fund and apply them in accordance with the
17 resolution authorizing the bonds. The small business incubator
18 fund and any accounts established in the fund shall be held in
19 trust by the state treasurer for and on behalf of the department
20 and the owners of the general obligation bonds issued in accordance
21 with this section, and may be used only as provided by this
22 subchapter. Pending use, the treasurer may invest and reinvest
23 money in the small business incubator fund in investments
24 authorized by law for state funds that the treasurer, consistent
25 with the board's resolutions authorizing the bonds, considers
26 appropriate. Repayments of financial assistance provided under
27 this subchapter, together with earnings received on investments of

1 the small business incubator fund, shall be deposited, first, in
2 the interest and sinking account as prescribed by the board's
3 resolutions authorizing bonds under this section, and, second, in
4 any reserve account established by the board until that account is
5 fully funded as prescribed by the board's resolutions. If, during
6 the time any general obligation bonds are payable from the interest
7 and sinking account, the board determines that there will not be
8 sufficient money in the interest and sinking account during the
9 following fiscal year to pay the principal of or interest on the
10 general obligation bonds or both the principal and interest that
11 are to come due during the following fiscal year, the comptroller
12 of public accounts shall transfer to the fund the first money
13 coming into the state treasury not otherwise appropriated by the
14 constitution in an amount sufficient to pay the obligations.

15 (b) The bonds may be issued from time to time in one or more
16 series or issues, in bearer, registered, or any other form, which
17 may include registered uncertificated obligations not represented
18 by written instruments and commonly known as book-entry
19 obligations, the registration of ownership and transfer of which
20 shall be provided for by the board under a system of books and
21 records maintained by the department or by an agent appointed by
22 the board in a resolution providing for issuance of its bonds.
23 Bonds may mature serially or otherwise not more than 40 years from
24 their date. Bonds may bear no interest or may bear interest at any
25 rate or rates, fixed, variable, floating, or otherwise, determined
26 by the board or determined pursuant to any contractual arrangements
27 approved by the board, not to exceed the maximum net effective

1 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
2 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
3 Statutes). Interest on the bonds may be payable at any time and
4 the rate of interest on the bonds may be adjusted at any time
5 determined by the board pursuant to the resolutions authorizing the
6 bonds or determined pursuant to any contractual arrangement
7 approved by the board. In connection with the issuance of its
8 bonds, the board may exercise the powers granted to the governing
9 body of an issuer in connection with the issuance of obligations
10 under Chapter 656, Acts of the 68th Legislature, Regular Session,
11 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent
12 not inconsistent with this section. The bonds may be issued in the
13 form and denominations and executed in the manner and under the
14 terms, conditions, and details determined by the board in the
15 resolution authorizing their issuance. If any officer whose manual
16 or facsimile signature appears on the bonds ceases to be an
17 officer, the signature remains valid and sufficient for all
18 purposes as if the officer had remained in office.

19 (c) All bonds issued by the board under this section are
20 subject to review and approval by the attorney general in the same
21 manner and with the same effect as is provided by Chapter 656, Acts
22 of the 68th Legislature, Regular Session, 1983 (Article 717q,
23 Vernon's Texas Civil Statutes).

24 (d) The bonds are a legal and authorized investment for a
25 bank, trust company, savings and loan association, insurance
26 company, fiduciary, trustee, or guardian or a sinking fund of a
27 municipality, county, school district, or political subdivision of

1 the state. The bonds may secure deposits of public funds of the
 2 state, a municipality, a county, a school district, or another
 3 political corporation or subdivision of the state. The department
 4 may issue bonds to refund all or part of its outstanding bonds,
 5 including accrued but unpaid interest. The bonds, a transaction
 6 relating to the bonds, or a profit made in the sale of the bonds is
 7 exempt from taxation by the state, an agency or subdivision of the
 8 state, a municipality, or a special district.

9 (e) This section is contingent on the adoption of the
 10 constitutional amendment proposed by H.J.R. 70, Acts of the 71st
 11 Legislature, Regular Session, 1989. If that proposed
 12 constitutional amendment is not approved by the voters, this
 13 section has no effect.

14 Sec. 481.246. CONSIDERATIONS IN FINANCING. In determining
 15 whether to provide financing under this subchapter, the board shall
 16 consider the likelihood of success of the applicant and the effect
 17 of the financing on job creation and retention in the state. The
 18 board shall give preference to applicants who are Texas residents
 19 doing business in the state, and then to applicants who can
 20 demonstrate that the financed activities will take place
 21 predominantly in this state.

22 SECTION 8. Chapter 58, Agriculture Code, is amended by
 23 adding Subchapter D to read as follows:

24 SUBCHAPTER D. BONDS

25 Sec. 58.031. ISSUANCE OF GENERAL OBLIGATION BONDS. (a) The
 26 board by resolution may provide for the issuance of up to \$25
 27 million of general obligation bonds as authorized by the Texas

1 Constitution. The bonds shall be on a parity. The authority may
2 issue bonds in one or several installments. Before authorizing the
3 issuance of any general obligation bonds, the board must find that
4 the issuance of revenue bonds was not an economically advisable
5 alternative for carrying out this chapter.

6 (b) Proceeds of the bonds shall be deposited in the Texas
7 agricultural fund and applied in accordance with the resolution
8 authorizing the bonds:

9 (1) to provide financial assistance to eligible
10 agricultural businesses;

11 (2) to pay costs of issuance of those bonds and the
12 administration of any financial assistance program established with
13 money in the Texas agricultural fund; and

14 (3) together with any other available funds, to pay
15 the principal of or interest on or to discharge or redeem, in whole
16 or in part, any outstanding bonds issued by the authority.

17 Sec. 58.032. TEXAS AGRICULTURAL FUND. (a) The Texas
18 agricultural fund is a fund in the state treasury.

19 (b) The Texas agricultural fund may, at the direction of the
20 board, receive from the state or federal government or from any
21 other person, money that is to be administered by the authority in
22 connection with the provision of financial assistance to eligible
23 agricultural businesses, including those businesses engaged in the
24 application of biotechnology to agriculture, under any program
25 funded in whole or in part with the proceeds of general obligation
26 bonds issued to carry out the purpose of this chapter.

27 (c) The board may provide for the establishment and

1 maintenance of separate accounts within the Texas agricultural
2 fund, including program accounts as prescribed by the board, an
3 interest and sinking account, a reserve account, and other accounts
4 provided for by the board in its resolutions. Repayments of
5 financial assistance under any program funded in whole or in part
6 with the proceeds of any series of general obligation bonds shall
7 be deposited first in the interest and sinking account as
8 prescribed by the board's resolutions authorizing such series of
9 general obligation bonds, and second in the reserve account in
10 respect of such series of general obligation bonds until that
11 account is fully funded as prescribed by the board's resolutions.
12 The fund and all accounts within it shall be kept and maintained at
13 the direction of the board and held in trust by the state treasurer
14 for and on behalf of the authority and the owners of the general
15 obligation bonds issued in accordance with this chapter, and may be
16 used only as provided by this chapter. Pending its use, money in
17 the fund shall be invested as prescribed by the resolution by which
18 the bonds were issued.

19 (d) To the extent the board determines that any money
20 credited to the Texas agricultural fund from repayments of
21 financial assistance is not required by Subsection (c) of this
22 section and the resolutions of the board to be held in the interest
23 and sinking account or reserve account to provide for the payment
24 of the principal of and interest on the outstanding general
25 obligation bonds issued by the authority, that money may be used by
26 the authority to pay the principal of and interest on revenue bonds
27 issued by the authority or for any other authorized purpose of the

1 authority, in accordance with this chapter and the authority's
2 resolutions authorizing general obligation bonds.

3 (e) If during the existence of the Texas agricultural fund
4 or during the time any general obligation bonds are payable from
5 the fund the board determines that there will not be sufficient
6 money in the interest and sinking account during the following
7 fiscal year to pay the principal of or interest on the general
8 obligation bonds or both the principal and interest that are to
9 come due during the following fiscal year, the comptroller of
10 public accounts shall transfer to the fund the first money coming
11 into the state treasury not otherwise appropriated by the
12 constitution in an amount sufficient to pay the obligations.

13 (f) The department may receive, and shall deposit in the
14 Texas agricultural fund, appropriations, grants, donations, earned
15 federal funds, and the proceeds of any investment pools operated by
16 the treasurer. The Texas product development fund shall operate as
17 a revolving fund the contents of which may be applied and reapplied
18 to the purposes of this chapter.

19 Sec. 58.033. ISSUANCE OF REVENUE BONDS. (a) In addition to
20 the authority to issue general obligation bonds, the authority may
21 issue not more than \$500 million of revenue bonds for the purpose
22 of the authority under this chapter. The authority shall establish
23 and maintain funds and accounts, in accordance with Subsection (d)
24 of this section, that the board considers necessary to ensure
25 payment of the bonds and to provide for the use of the bond
26 proceeds and the implementation of the program financed. Proceeds
27 of revenue bonds shall be applied in accordance with the resolution

1 authorizing those bonds:

2 (1) to provide financial assistance to eligible
3 agricultural businesses;

4 (2) to pay costs of issuance of those bonds and the
5 administration of any financial assistance program established by
6 the authority; and

7 (3) together with any other available funds, to pay
8 the principal of or interest on or to discharge or redeem, in whole
9 or in part, any outstanding bonds issued by the authority.

10 (b) The authority's revenue bonds are obligations solely of
11 the authority and are payable solely from funds of the authority
12 that are pledged to the repayment of the revenue bonds. The
13 authority may not use, except as provided in Section 58.032, or
14 pledge money in the Texas agricultural fund to repayment of its
15 revenue bonds. The authority's bonds are not and do not create or
16 constitute a pledge, giving, or lending of the faith or credit or
17 taxing power of the state. Each bond of the authority issued under
18 this section must contain a statement to the effect that the state
19 is not obligated to pay the principal of or any premium or interest
20 on the bond, and that neither the faith or credit nor the taxing
21 power of the state is pledged, given, or loaned to such a payment.

22 (c) Revenue bonds of the authority shall be payable as to
23 principal, interest, and redemption premium, if any, from and
24 secured by a first lien or a subordinate lien on and pledge of all
25 or any part of the property, revenues, income, or other resources
26 of the authority, as specified in the board's resolution
27 authorizing issuance of those bonds, including mortgages or other

1 interests in property financed, with the proceeds of such bonds,
2 repayments of financial assistance, earnings from investments or
3 deposits of the bonds of the authority, fees, charges, and any
4 other amounts or payments received pursuant to this chapter, and
5 any appropriations, grants, allocations, subsidies, supplements,
6 guaranties, aid, contribution, or donations from the state or
7 federal government or any other person.

8 (d) The board may make additional covenants with respect to
9 the bonds and the pledged revenues and may provide for the flow of
10 funds, the establishment and maintenance and investment of funds,
11 which may include interest and sinking funds, reserve funds,
12 program funds, and other funds. Those funds shall be kept and
13 maintained in escrow and in trust by the state treasurer for and on
14 behalf of the authority and the owners of its revenue bonds, in
15 funds held outside the treasury pursuant to Section 404.073,
16 Government Code. Those funds shall be used only as provided by
17 this chapter, and pending their use shall be invested as provided
18 by any resolution of the authority. Legal title to those funds
19 shall be in the authority unless or until paid out as provided by
20 this chapter or by the resolutions authorizing the authority's
21 bonds. The state treasurer, as custodian, shall administer those
22 funds strictly and only as provided by this chapter and in those
23 resolutions. The treasurer shall invest the funds in investments
24 authorized by law for state funds. The state shall take no action
25 with respect to those funds other than that specified in this
26 chapter and in those resolutions.

27 (e) The board may provide in the resolution authorizing any

1 revenue bonds for the issuance of additional bonds to be equally
2 and ratably secured by lien on the revenues and receipts, or for
3 the issuance of subordinate lien bonds.

4 Sec. 58.034. GENERAL PROVISIONS RELATING TO BONDS. (a) The
5 authority's bonds may be issued from time to time in one or more
6 series or issues, in bearer, registered, or any other form, which
7 may include registered uncertified obligations not represented by
8 written instruments and commonly known as book-entry obligations,
9 the registration of ownership and transfer of which shall be
10 provided for by the authority under a system of books and records
11 maintained by the authority or by an agent appointed by the
12 authority in resolution providing for issuance of its bonds. Bonds
13 may mature serially or otherwise not more than 40 years from their
14 date. Bonds may bear no interest or may bear interest at any rate
15 or rates, fixed, variable, floating, or otherwise, determined by
16 the board or determined pursuant to any contractual arrangements
17 approved by the board, not to exceed the maximum net effective
18 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
19 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
20 Statutes). Interest on the bonds may be payable at any time, and
21 the rate of interest on the bonds may be adjusted at such time as
22 may be determined by the board or as may be determined pursuant to
23 any contractual arrangement approved by the board. In connection
24 with the issuance of its bonds, the board may exercise the powers
25 granted to the governing body of an issuer in connection with the
26 issuance of obligations under Chapter 656, Acts of the 68th
27 Legislature, Regular Session, 1983 (Article 717g, Vernon's Texas

1 Civil Statutes), to the extent not inconsistent with this chapter.

2 (b) The bonds issued under this chapter and interest
3 coupons, if any, are investment securities under the terms of
4 Chapter 8, Business & Commerce Code. The bonds are exempt
5 securities under The Securities Act (Article 581-1 et seq.,
6 Vernon's Texas Civil Statutes), and unless specifically provided
7 otherwise, under any subsequently enacted securities act. Any
8 contract, guaranty, or any other document executed in connection
9 with the issuance of bonds pursuant to this chapter is not a
10 security under The Securities Act (Article 581-1 et seq., Vernon's
11 Texas Civil Statutes), and, unless specifically provided otherwise,
12 any subsequently enacted securities act. The board is authorized
13 to do all things necessary to qualify the bonds for offer and sale
14 under the securities laws and regulations of the United States and
15 of the states and other jurisdictions in the United States as the
16 board shall determine.

17 (c) The bonds may be issued in the form and denominations
18 and executed in the manner and under the terms, conditions, and
19 details determined as provided by the board in the resolution
20 authorizing their issuance. If any officer whose manual or
21 facsimile signature appears on the bonds ceases to be an officer,
22 the signature is still valid and sufficient for all purposes as if
23 the officer had remained in office.

24 (d) All bonds issued by the authority are subject to review
25 and approval by the attorney general in the same manner and with
26 the same effect as is provided by Chapter 656, Acts of the 68th
27 Legislature, Regular Session, 1983 (Article 717g, Vernon's Texas

1 Civil Statutes).

2 (e) No fee may be charged by any other agency of this state
3 in connection with the issuance of the bonds or the allocation of a
4 portion of the state volume limitation on private activity bonds
5 either under executive order or legislative enactment. No
6 proceeding, notice, or approval is required for the issuance of any
7 bonds or any instrument as security except as provided by this Act.
8 Nothing in this subsection may be constituted to deprive the state
9 and its governmental subdivisions of their respective police powers
10 or to impair any police power of any official or agency of the
11 state or its subdivisions as may be provided by law.

12 (f) The state pledges to and agrees with the owners of any
13 bonds issued in accordance with this chapter that the state will
14 not limit or alter the rights vested in the authority to fulfill
15 the terms of any agreements made with the owners of the bonds or in
16 any way impair the rights and remedies of those owners until those
17 bonds, together with any premium and the interest on the bonds and
18 all costs and expenses in connection with any action or proceeding
19 by or on behalf of those owners, are fully met and discharged. The
20 authority is authorized to include this pledge and agreement of the
21 state in any agreement with the owners of those bonds.

22 (g) The bonds may be sold at public or private sale with or
23 without public bidding in the manner, at such rate or rates, price
24 or prices, and on such terms as may be determined by the board or
25 determined as provided in any contractual arrangement approved by
26 the board. The board also may enter into any contractual
27 arrangement under which the bonds are to be sold from time to time,

1 or subject to purchase, at such prices and rates, interest rate or
2 payment periods, and terms as determined pursuant to that
3 contractual arrangement approved by the board.

4 (h) Pending the preparation of definitive bonds, interim
5 receipts or certificates in the form and with the provisions that
6 are provided in the resolution may be issued to the purchaser or
7 purchasers of bonds sold under this chapter.

8 (i) The board may provide procedures for the replacement of
9 a mutilated, lost, stolen, or destroyed bond or interest coupon.

10 (j) The resolutions of the board issuing bonds may contain
11 other provisions and covenants as the board may determine.

12 (k) The board may adopt and have executed any other
13 proceedings or instruments necessary and convenient in the issuance
14 of bonds.

15 (l) The authority may not issue bonds after August 31, 1993.

16 Sec. 58.035. REFUNDING BONDS. The authority may issue,
17 sell, and deliver bonds to refund all or any part of its
18 outstanding bonds, including the payment of any redemption premium
19 and interest accrued, under such terms, conditions, and details as
20 determined by the board. Bonds issued by the authority may be
21 refunded in the manner provided by any other applicable statute,
22 including Chapter 503, Acts of the 54th Legislature, Regular
23 Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), and
24 Chapter 784, Acts of the 61st Legislature, Regular Session, 1969
25 (Article 717k-3, Vernon's Texas Civil Statutes). Bonds, the
26 provision for the payment of all interest and applicable premiums
27 on which and the principal of which has been made through the

irrevocable deposit of money with the treasurer in accordance with the provisions of such an applicable statute, shall no longer be charged against the issuing authority of the authority, and on the making of such provision such issuing authority shall, to the extent of the principal amount of such bonds, be restored.

Sec. 58.036. PAYMENT ENFORCEABLE BY MANDAMUS. Payment of the bonds and performance by the authority or the commissioner of its or his functions and duties under this chapter and the Texas Constitution may be enforced in the state supreme court by mandamus or other appropriate proceeding.

Sec. 58.037. BONDS AS INVESTMENTS. (a) The bonds are legal and authorized investments for:

- (1) banks;
- (2) trust companies;
- (3) savings and loan associations;
- (4) insurance companies of all kinds and types;
- (5) fiduciaries;
- (6) trustees;
- (7) guardians; and
- (8) sinking and other public funds of the state, municipalities, counties, school districts, and other political subdivisions of the state.

(b) The bonds are eligible to secure the deposit of any public funds of the state, municipalities, counties, school districts, or other political subdivisions of the state, and the bonds shall be lawful and sufficient security for the deposits to the extent of their face value when accompanied by all unmatured

1 coupons attached to the bonds.

2 Sec. 58.038. TAX STATUS OF BONDS. The bonds issued by the
3 authority, any transaction relating to the bonds, and any profits
4 made in the sale of the bonds are free from taxation by the state
5 or by any city, county, special district, or other political
6 subdivision of the state; provided that this section does not
7 exempt the owner of any property financed under this chapter from
8 any ad valorem, sales, use, excise, or other tax levied by the
9 state or any political corporation of this state.

10 Sec. 58.039. REVIEW. Bonds may not be issued under this
11 chapter, and proceeds of bonds under this chapter may not be used
12 to finance a program unless the issuance or program, as applicable,
13 has been reviewed and approved by the review board.

14 Sec. 58.040. CONSIDERATIONS IN FINANCING. In determining
15 whether to provide financing under this chapter, the board shall
16 consider the likelihood of success of the applicant and the effect
17 of the financing on job creation and retention in the state. The
18 board shall give preference to applicants who are Texas residents
19 doing business in the state, and then to applicants who can
20 demonstrate that the financed activities will take place
21 predominantly in this state.

22 Sec. 58.041. GENERAL BONDS CONTINGENT. The provisions of
23 this section authorizing the issuance of general obligation bonds
24 are contingent on adoption of the constitutional amendment proposed
25 by H.J.R. No. 70, 71st Legislature, Regular Session, 1989. If that
26 amendment is not approved by the voters, those provisions have no
27 effect.

1 SECTION 9. The importance of this legislation and the
2 crowded condition of the calendars in both houses create an
3 emergency and an imperative public necessity that the
4 constitutional rule requiring bills to be read on three several
5 days in each house be suspended, and this rule is hereby suspended.

HOUSE ENGROSSMENT

89MAY 19 AM 3:17
HOUSE OF REPRESENTATIVES

By Colbert

H.B. No. 1860

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.221, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.221. DEFINITIONS. In this subchapter:

(1) "Advisory board" means the Product Development Advisory Board.

(2) [~~1~~] "Executive director" means the executive director of the department or the executive director's designee.

(3) "Fund" means the product development fund.

(4) "Office" means the Office of Advanced Technology within the Texas Department of Commerce.

(5) [~~2~~] "Product" means an invention, product, device, technique, or process, without regard to whether a patent has or could be granted, that is or may be exploitable commercially. The term does not refer to pure research but includes products, devices, techniques, or processes that have advanced beyond the theoretical stage and have or are readily capable of having a commercial application.

(6) [~~3~~] "Venture financing" means a revolving loan, loan guarantee, or equity investment from the Texas product

1 development fund to a person for use in the development of new or
2 improved products.

3 SECTION 2. Section 481.222, Government Code, as added by
4 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
5 amended to read as follows:

6 Sec. 481.222. TEXAS PRODUCT DEVELOPMENT FUND; VENTURE
7 FINANCING. (a) The Texas product development fund is a revolving
8 fund in the state treasury. The fund consists of money
9 appropriated to the department, proceeds of bonds issued under this
10 subchapter, application fees, loan repayments, guarantee fees,
11 royalty receipts, dividend income, and other amounts received by
12 the state from loans, loan guarantees, and equity investments made
13 under this subchapter, other amounts received by the state for
14 loans or grants made under this subchapter, and money acquired from
15 federal grants or other sources and required by resolution of the
16 board to be deposited in the fund. The fund contains a program
17 account, an interest and sinking account, and other accounts that
18 the board authorizes to be created and maintained. Money in the
19 fund is available for use by the department under this subchapter.

20 (b) Money in the program account, minus the costs of
21 issuance of bonds under this subchapter and necessary costs of
22 administering the fund, may be used only to provide venture
23 financing to aid in the development and for the commercialization
24 of new or improved products. The department may provide venture
25 financing from the fund for the purposes of designing and
26 constructing new facilities, rehabilitating existing facilities,
27 acquiring any interest in real or personal property, and providing

1 initial working capital to pay the cost of salaries, rents,
2 supplies, inventories, mortgage payments, legal services, and
3 utilities and telephone, travel, and other incidental costs
4 normally classified as working capital according to standard
5 accounting principles. The department shall provide venture
6 financing from the fund on the terms and conditions that the
7 department determines to be reasonable, appropriate, and consistent
8 with the purposes and objectives of the fund and this subchapter
9 for the purpose of financing a new or improved product that is or
10 may be exploitable commercially. The department may provide
11 venture financing only if financing for the product being developed
12 is not otherwise available on reasonable terms.

13 (c) Before approving the provision of venture financing to a
14 person, the department shall enter into an agreement with the
15 person under which the department will obtain an appropriate
16 portion of royalties, patent rights, equitable interests, or a
17 combination of those royalties, rights, and interests from or in
18 the product or proceeds of the product for which venture financing
19 is requested. Contracts executed under this subchapter must
20 include agreements to ensure proper use of funds and the receipt of
21 royalties, patent rights, or equity interest, as appropriate.

22 SECTION 3. Section 481.224, Government Code, as added by
23 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
24 amended to read as follows:

25 Sec. 481.224. APPLICATION. (a) An application for venture
26 financing must be delivered, together with a reasonable application
27 fee prescribed by the department, to the executive director. The

1 application shall contain a business plan, containing such
2 information as required by the department, including at a minimum[7
3 ~~who--shall-conduct-an-investigation-and-prepare-a-report-concerning~~
4 ~~the-advisability-of-approving-the-application-and-concerning--other~~
5 ~~factors--considered--relevant--by--the--department: ---The-executive~~
6 ~~director's-report-must-include]:~~

7 (1) information regarding the history and financial
8 condition of the applicant, including the applicant's income
9 statement, and information about the applicant's present markets
10 and market prospects and about the integrity of the applicant's
11 management; [and]

12 (2) a statement of the feasibility of the product for
13 which financing is requested, including the state of development of
14 the product and the likelihood of its commercialization; and[7]

15 (3) a description of attempts to obtain private
16 financing, including documentation verifying such efforts and a
17 clear description of the reasons such financing was denied.

18 (b) The [For-each-application,7-the] executive director shall
19 [also] determine the following with respect to each application for
20 venture financing [whether]:

21 (1) whether the product for which financing is
22 requested is economically sound, and whether[7--(2)] there is a
23 reasonable expectation that the product will be successful;

24 (2) whether [(3)] the product will create or preserve
25 jobs and otherwise benefit the economy of the state;

26 (3) whether [(4)] the applicant lacks the financial
27 resources to complete the project, and whether[7-(5)] venture

financing is necessary because financing is unavailable in traditional capital markets or credit has been offered on terms that would preclude the success of the project; and

(4) whether [~~(6)~~] there is reasonable assurance that the potential revenues to be derived from the sale of the product will be sufficient to repay any venture financing approved by the department[~~7-and-(7)-with-respect-to-patents,-copyrights,-and-other-ownership--rights--relative--to--the--product,-there-is-reasonable-assurance-that-the-product-will--be--used--to--the--maximum--extent-possible-in-facilities-located-in-this-state~~].

(c) The executive director shall submit the report to the department. After considering the report, together with [~~and~~] other information that the department considers appropriate, the department shall approve or deny the application for venture financing and promptly notify the applicant of its [~~the~~] decision.

SECTION 4. Section 481.225, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.225. INFORMATION CONFIDENTIAL. Information relating to a product, and the application or use of a product, and technological and scientific information, including computer programs, developed in whole or part by an applicant for or a recipient of venture financing, is confidential and is not subject to disclosure under state law or otherwise, regardless of whether the product is patentable or capable of being registered under copyright or trademark laws, or has a potential for being sold, traded, or licensed for a fee; however, nothing in this subchapter

1 shall prevent or restrict the Office of Advanced Technology or the
2 advisory board from obtaining information relating to a product or
3 process from an applicant or recipient of a loan under this
4 subchapter.

5 SECTION 5. Subchapter Q, Chapter 481, Government Code, as
6 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
7 1989, is amended by adding Sections 481.226, 481.227, 481.228, and
8 481.229 to read as follows:

9 Sec. 481.226. ADVISORY BOARD. (a) The Product Development
10 Advisory Board is composed of:

11 (1) one representative of the Texas Higher Education
12 Coordinating Board selected by the Texas Higher Education
13 Coordinating Board;

14 (2) two persons appointed by the governor;

15 (3) two persons appointed by the lieutenant governor;

16 and

17 (4) two persons appointed by the speaker of the house
18 of representatives.

19 (b) In appointing members of the advisory board, the
20 governor, lieutenant governor, and speaker of the house shall
21 appoint persons having significant business leadership experience
22 with emerging technologies, particularly experience with the
23 transfer of research results into commercial application.

24 (c) Members of the advisory board serve two-year staggered
25 terms with the terms of four members expiring February 1 of each
26 odd-numbered year and the terms of three members expiring February
27 1 of each even-numbered year.

1 (d) The governor shall appoint the advisory board's chairman
2 from among its members.

3 (e) The advisory board shall adopt rules establishing limits
4 on the amount of each loan and otherwise governing the terms and
5 conditions of the loans, specifically including requirements for
6 appropriate security or collateral and the rights and remedies of
7 the department in the event of a default on the loan. Such rules
8 shall include a requirement that borrowers shall report to the
9 advisory board on the use of money distributed through this fund.

10 Sec. 481.227. ELIGIBLE PROJECTS AND BORROWERS. (a) A loan
11 may be made under this subchapter only to finance a project
12 approved by the advisory board and the governing board of the Texas
13 Department of Commerce.

14 (b) In determining eligible projects the advisory board and
15 the board shall give special preference to projects that have the
16 greatest likelihood of commercial success, specifically including
17 but not limited to projects in the areas of biotechnology,
18 biomedicine, energy, materials science, microelectronics,
19 aerospace, marine science, aquaculture, telecommunications,
20 manufacturing science, and other priority research areas as
21 provided in Section 143.003 of the Education Code. The priority
22 research area of agriculture will be funded according to the
23 provisions of Subchapter D, Chapter 58, of the Agriculture Code.
24 The advisory board further shall give consideration to: (1)
25 grantees under the small business innovation research program
26 established under 15 U.S.C. Section 638; (2) Texas companies
27 formed to commercialize research funded at least in part with state

1 funds; and (3) Texas companies receiving assistance from
2 designated state small business development centers.

3 Sec. 481.228. CONSIDERATION IN FINANCING. In determining
4 whether to provide financing under this subchapter, the board shall
5 consider the likelihood of success of the applicant and the effect
6 of the financing on job creation and retention in the state. The
7 board shall give preference to applicants who are Texas residents
8 doing business in the state and performing financed activities
9 predominantly in the state, and then to applicants who can
10 demonstrate that the financed activities will take place
11 predominantly in this state.

12 Sec. 481.229. BONDS. (a) The board may issue up to \$45
13 million of general obligation bonds and may use the proceeds of the
14 bonds to provide venture financing under this subchapter. The
15 board shall deposit the proceeds of the bonds in the Texas product
16 development fund and apply them in accordance with the resolution
17 authorizing the bonds. The Texas product development fund and any
18 accounts established in the fund shall be held in trust by the
19 state treasurer for and on behalf of the department and the owners
20 of the general obligation bonds issued in accordance with this
21 section, and may be used only as provided by this section. Pending
22 use, the treasurer may invest and reinvest money in the product
23 development fund in investments authorized by law for state funds
24 that the treasurer, consistent with the board's resolutions
25 authorizing the bonds, considers appropriate. Repayments of
26 financial assistance provided under this subchapter, together with
27 earnings received on investments of the product development funds,

1 shall be deposited, first, in the interest and sinking account as
2 prescribed by the board's resolutions authorizing bonds under this
3 subchapter, and, second, in any reserve account established by the
4 board until that account is fully funded as prescribed by the
5 board's resolutions. If, during the time any general obligation
6 bonds are payable from the interest and sinking account, the board
7 determines that there will not be sufficient money in the interest
8 and sinking account during the following fiscal year to pay the
9 principal of or interest on the general obligation bonds or both
10 the principal and interest that are to come due during the
11 following fiscal year, the comptroller of public accounts shall
12 transfer to the fund the first money coming into the state treasury
13 not otherwise appropriated by the constitution in an amount
14 sufficient to pay the obligations.

15 (b) The bonds may be issued from time to time in one or more
16 series or issues, in bearer, registered, or any other form, which
17 may include registered uncertificated obligations not represented
18 by written instruments and commonly known as book-entry
19 obligations, the registration of ownership and transfer of which
20 shall be provided for by the board under a system of books and
21 records maintained by the department or by an agent appointed by
22 the board in a resolution providing for issuance of its bonds.
23 Bonds may mature serially or otherwise not more than 40 years from
24 their date. Bonds may bear no interest or may bear interest at any
25 rate or rates, fixed, variable, floating, or otherwise, determined
26 by the board or determined pursuant to any contractual arrangements
27 approved by the board, not to exceed the maximum net effective

1 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
 2 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
 3 Statutes). Interest on the bonds may be payable at any time and
 4 the rate of interest on the bonds may be adjusted at any time
 5 determined by the board pursuant to the resolutions authorizing the
 6 bonds or determined pursuant to any contractual arrangement
 7 approved by the board. In connection with the issuance of its
 8 bonds, the board may exercise the powers granted to the governing
 9 body of an issuer in connection with the issuance of obligations
 10 under Chapter 656, Acts of the 68th Legislature, Regular Session,
 11 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent
 12 not inconsistent with this section. The bonds may be issued in the
 13 form and denominations and executed in the manner and under the
 14 terms, conditions, and details determined by the board in the
 15 resolution authorizing their issuance. If any officer whose manual
 16 or facsimile signature appears on the bonds ceases to be an
 17 officer, the signature remains valid and sufficient for all
 18 purposes as if the officer had remained in office.

19 (c) All bonds issued by the board under this section are
 20 subject to review and approval by the attorney general in the same
 21 manner and with the same effect as is provided by Chapter 656, Acts
 22 of the 68th Legislature, Regular Session, 1983 (Article 717q,
 23 Vernon's Texas Civil Statutes).

24 (d) The bonds are a legal and authorized investment for a
 25 bank, trust company, savings and loan association, insurance
 26 company, fiduciary, trustee, or guardian or sinking fund of a
 27 municipality, county, school district, or political subdivision of

1 the state. The bonds may secure deposits of public funds of the
 2 state, a municipality, a county, a school district, or another
 3 political corporation or subdivision of the state. The board may
 4 issue bonds to refund all or part of its outstanding bonds,
 5 including accrued but unpaid interest. The bonds, a transaction
 6 relating to the bonds, or a profit made in the sale of the bonds is
 7 exempt from taxation by the state, an agency or subdivision of the
 8 state, a municipality, or a special district.

9 (e) This section is contingent on the adoption of the
 10 constitutional amendment proposed by H.J.R. 70, Acts of the 71st
 11 Legislature, Regular Session, 1989. If that proposed
 12 constitutional amendment is not approved by the voters, this
 13 section has no effect.

14 SECTION 6. Section 481.242, Government Code, as added by
 15 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
 16 amended to read as follows:

17 Sec. 481.242. SMALL BUSINESS INCUBATOR FUND. (a) The small
 18 business incubator fund is a revolving fund in the state treasury.

19 (b) Money appropriated to the department, proceeds of bonds
 20 issued under this subchapter, application fees, guarantee fees,
 21 royalty receipts, dividend income, loan repayments, and other
 22 amounts received by the state for loans, loan guarantees, equity in
 23 investments, or grants made under this subchapter, and any other
 24 money received by the department under this subchapter and required
 25 by resolution of the board to be deposited in the fund, including
 26 federal funds and the proceeds of any investment pools operated by
 27 the treasurer shall be deposited to the credit of the fund.

1 Appropriated money in the fund may be applied and reapplied to the
2 purposes of this subchapter.

3 SECTION 7. Subchapter R, Chapter 481, Government Code, as
4 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
5 1989, is amended by adding Sections 481.244, 481.245, and 481.246
6 to read as follows:

7 Sec. 481.244. INVESTMENT POOLS. The department shall
8 develop programs encouraging the creation of local investment pools
9 to assist with the financing of businesses emerging from the
10 incubator.

11 Sec. 481.245. BONDS. (a) The board may issue up to \$20
12 million of general obligation bonds and may use the proceeds, less
13 the costs of issuance of the bonds, to carry out the small business
14 incubator program in accordance with the resolution authorizing the
15 bonds. The board shall deposit the proceeds of the bonds in the
16 small business incubator fund and apply them in accordance with the
17 resolution authorizing the bonds. The small business incubator
18 fund and any accounts established in the fund shall be held in
19 trust by the state treasurer for and on behalf of the department
20 and the owners of the general obligation bonds issued in accordance
21 with this section, and may be used only as provided by this
22 subchapter. Pending use, the treasurer may invest and reinvest
23 money in the small business incubator fund in investments
24 authorized by law for state funds that the treasurer, consistent
25 with the board's resolutions authorizing the bonds, considers
26 appropriate. Repayments of financial assistance provided under
27 this subchapter, together with earnings received on investments of

1 the small business incubator fund, shall be deposited, first, in
2 the interest and sinking account as prescribed by the board's
3 resolutions authorizing bonds under this section, and, second, in
4 any reserve account established by the board until that account is
5 fully funded as prescribed by the board's resolutions. If, during
6 the time any general obligation bonds are payable from the interest
7 and sinking account, the board determines that there will not be
8 sufficient money in the interest and sinking account during the
9 following fiscal year to pay the principal of or interest on the
10 general obligation bonds or both the principal and interest that
11 are to come due during the following fiscal year, the comptroller
12 of public accounts shall transfer to the fund the first money
13 coming into the state treasury not otherwise appropriated by the
14 constitution in an amount sufficient to pay the obligations.

15 (b) The bonds may be issued from time to time in one or more
16 series or issues, in bearer, registered, or any other form, which
17 may include registered uncertificated obligations not represented
18 by written instruments and commonly known as book-entry
19 obligations, the registration of ownership and transfer of which
20 shall be provided for by the board under a system of books and
21 records maintained by the department or by an agent appointed by
22 the board in a resolution providing for issuance of its bonds.
23 Bonds may mature serially or otherwise not more than 40 years from
24 their date. Bonds may bear no interest or may bear interest at any
25 rate or rates, fixed, variable, floating, or otherwise, determined
26 by the board or determined pursuant to any contractual arrangements
27 approved by the board, not to exceed the maximum net effective

1 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
 2 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
 3 Statutes). Interest on the bonds may be payable at any time and
 4 the rate of interest on the bonds may be adjusted at any time
 5 determined by the board pursuant to the resolutions authorizing the
 6 bonds or determined pursuant to any contractual arrangement
 7 approved by the board. In connection with the issuance of its
 8 bonds, the board may exercise the powers granted to the governing
 9 body of an issuer in connection with the issuance of obligations
 10 under Chapter 656, Acts of the 68th Legislature, Regular Session,
 11 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent
 12 not inconsistent with this section. The bonds may be issued in the
 13 form and denominations and executed in the manner and under the
 14 terms, conditions, and details determined by the board in the
 15 resolution authorizing their issuance. If any officer whose manual
 16 or facsimile signature appears on the bonds ceases to be an
 17 officer, the signature remains valid and sufficient for all
 18 purposes as if the officer had remained in office.

19 (c) All bonds issued by the board under this section are
 20 subject to review and approval by the attorney general in the same
 21 manner and with the same effect as is provided by Chapter 656, Acts
 22 of the 68th Legislature, Regular Session, 1983 (Article 717q,
 23 Vernon's Texas Civil Statutes).

24 (d) The bonds are a legal and authorized investment for a
 25 bank, trust company, savings and loan association, insurance
 26 company, fiduciary, trustee, or guardian or a sinking fund of a
 27 municipality, county, school district, or political subdivision of

1 the state. The bonds may secure deposits of public funds of the
 2 state, a municipality, a county, a school district, or another
 3 political corporation or subdivision of the state. The department
 4 may issue bonds to refund all or part of its outstanding bonds,
 5 including accrued but unpaid interest. The bonds, a transaction
 6 relating to the bonds, or a profit made in the sale of the bonds is
 7 exempt from taxation by the state, an agency or subdivision of the
 8 state, a municipality, or a special district.

9 (e) This section is contingent on the adoption of the
 10 constitutional amendment proposed by H.J.R. 70, Acts of the 71st
 11 Legislature, Regular Session, 1989. If that proposed
 12 constitutional amendment is not approved by the voters, this
 13 section has no effect.

14 Sec. 481.246. CONSIDERATIONS IN FINANCING. In determining
 15 whether to provide financing under this subchapter, the board shall
 16 consider the likelihood of success of the applicant and the effect
 17 of the financing on job creation and retention in the state. The
 18 board shall give preference to applicants who are Texas residents
 19 doing business in the state, and then to applicants who can
 20 demonstrate that the financed activities will take place
 21 predominantly in this state.

22 SECTION 8. Chapter 58, Agriculture Code, is amended by
 23 adding Subchapter D to read as follows:

24 SUBCHAPTER D. BONDS

25 Sec. 58.031. ISSUANCE OF GENERAL OBLIGATION BONDS. (a) The
 26 board by resolution may provide for the issuance of up to \$25
 27 million of general obligation bonds as authorized by the Texas

1 Constitution. The bonds shall be on a parity. The authority may
2 issue bonds in one or several installments. Before authorizing the
3 issuance of any general obligation bonds, the board must find that
4 the issuance of revenue bonds was not an economically advisable
5 alternative for carrying out this chapter.

6 (b) Proceeds of the bonds shall be deposited in the Texas
7 agricultural fund and applied in accordance with the resolution
8 authorizing the bonds:

9 (1) to provide financial assistance to eligible
10 agricultural businesses;

11 (2) to pay costs of issuance of those bonds and the
12 administration of any financial assistance program established with
13 money in the Texas agricultural fund; and

14 (3) together with any other available funds, to pay
15 the principal of or interest on or to discharge or redeem, in whole
16 or in part, any outstanding bonds issued by the authority.

17 Sec. 58.032. TEXAS AGRICULTURAL FUND. (a) The Texas
18 agricultural fund is a fund in the state treasury.

19 (b) The Texas agricultural fund may, at the direction of the
20 board, receive from the state or federal government or from any
21 other person, money that is to be administered by the authority in
22 connection with the provision of financial assistance to eligible
23 agricultural businesses, including those businesses engaged in the
24 application of biotechnology to agriculture, under any program
25 funded in whole or in part with the proceeds of general obligation
26 bonds issued to carry out the purpose of this chapter.

27 (c) The board may provide for the establishment and

1 maintenance of separate accounts within the Texas agricultural
2 fund, including program accounts as prescribed by the board, an
3 interest and sinking account, a reserve account, and other accounts
4 provided for by the board in its resolutions. Repayments of
5 financial assistance under any program funded in whole or in part
6 with the proceeds of any series of general obligation bonds shall
7 be deposited first in the interest and sinking account as
8 prescribed by the board's resolutions authorizing such series of
9 general obligation bonds, and second in the reserve account in
10 respect of such series of general obligation bonds until that
11 account is fully funded as prescribed by the board's resolutions.
12 The fund and all accounts within it shall be kept and maintained at
13 the direction of the board and held in trust by the state treasurer
14 for and on behalf of the authority and the owners of the general
15 obligation bonds issued in accordance with this chapter, and may be
16 used only as provided by this chapter. Pending its use, money in
17 the fund shall be invested as prescribed by the resolution by which
18 the bonds were issued.

19 (d) To the extent the board determines that any money
20 credited to the Texas agricultural fund from repayments of
21 financial assistance is not required by Subsection (c) of this
22 section and the resolutions of the board to be held in the interest
23 and sinking account or reserve account to provide for the payment
24 of the principal of and interest on the outstanding general
25 obligation bonds issued by the authority, that money may be used by
26 the authority to pay the principal of and interest on revenue bonds
27 issued by the authority or for any other authorized purpose of the

1 authority, in accordance with this chapter and the authority's
2 resolutions authorizing general obligation bonds.

3 (e) If during the existence of the Texas agricultural fund
4 or during the time any general obligation bonds are payable from
5 the fund the board determines that there will not be sufficient
6 money in the interest and sinking account during the following
7 fiscal year to pay the principal of or interest on the general
8 obligation bonds or both the principal and interest that are to
9 come due during the following fiscal year, the comptroller of
10 public accounts shall transfer to the fund the first money coming
11 into the state treasury not otherwise appropriated by the
12 constitution in an amount sufficient to pay the obligations.

13 (f) The department may receive, and shall deposit in the
14 Texas agricultural fund, appropriations, grants, donations, earned
15 federal funds, and the proceeds of any investment pools operated by
16 the treasurer. The Texas product development fund shall operate as
17 a revolving fund the contents of which may be applied and reapplied
18 to the purposes of this chapter.

19 Sec. 58.033. ISSUANCE OF REVENUE BONDS. (a) In addition to
20 the authority to issue general obligation bonds, the authority may
21 issue not more than \$500 million of revenue bonds for the purpose
22 of the authority under this chapter. The authority shall establish
23 and maintain funds and accounts, in accordance with Subsection (d)
24 of this section, that the board considers necessary to ensure
25 payment of the bonds and to provide for the use of the bond
26 proceeds and the implementation of the program financed. Proceeds
27 of revenue bonds shall be applied in accordance with the resolution

1 authorizing those bonds:

2 (1) to provide financial assistance to eligible
3 agricultural businesses;

4 (2) to pay costs of issuance of those bonds and the
5 administration of any financial assistance program established by
6 the authority; and

7 (3) together with any other available funds, to pay
8 the principal of or interest on or to discharge or redeem, in whole
9 or in part, any outstanding bonds issued by the authority.

10 (b) The authority's revenue bonds are obligations solely of
11 the authority and are payable solely from funds of the authority
12 that are pledged to the repayment of the revenue bonds. The
13 authority may not use, except as provided in Section 58.032, or
14 pledge money in the Texas agricultural fund to repayment of its
15 revenue bonds. The authority's bonds are not and do not create or
16 constitute a pledge, giving, or lending of the faith or credit or
17 taxing power of the state. Each bond of the authority issued under
18 this section must contain a statement to the effect that the state
19 is not obligated to pay the principal of or any premium or interest
20 on the bond, and that neither the faith or credit nor the taxing
21 power of the state is pledged, given, or loaned to such a payment.

22 (c) Revenue bonds of the authority shall be payable as to
23 principal, interest, and redemption premium, if any, from and
24 secured by a first lien or a subordinate lien on and pledge of all
25 or any part of the property, revenues, income, or other resources
26 of the authority, as specified in the board's resolution
27 authorizing issuance of those bonds, including mortgages or other

1 interests in property financed, with the proceeds of such bonds,
2 repayments of financial assistance, earnings from investments or
3 deposits of the bonds of the authority, fees, charges, and any
4 other amounts or payments received pursuant to this chapter, and
5 any appropriations, grants, allocations, subsidies, supplements,
6 guaranties, aid, contribution, or donations from the state or
7 federal government or any other person.

8 (d) The board may make additional covenants with respect to
9 the bonds and the pledged revenues and may provide for the flow of
10 funds, the establishment and maintenance and investment of funds,
11 which may include interest and sinking funds, reserve funds,
12 program funds, and other funds. Those funds shall be kept and
13 maintained in escrow and in trust by the state treasurer for and on
14 behalf of the authority and the owners of its revenue bonds, in
15 funds held outside the treasury pursuant to Section 404.073,
16 Government Code. Those funds shall be used only as provided by
17 this chapter, and pending their use shall be invested as provided
18 by any resolution of the authority. Legal title to those funds
19 shall be in the authority unless or until paid out as provided by
20 this chapter or by the resolutions authorizing the authority's
21 bonds. The state treasurer, as custodian, shall administer those
22 funds strictly and only as provided by this chapter and in those
23 resolutions. The treasurer shall invest the funds in investments
24 authorized by law for state funds. The state shall take no action
25 with respect to those funds other than that specified in this
26 chapter and in those resolutions.

27 (e) The board may provide in the resolution authorizing any

1 revenue bonds for the issuance of additional bonds to be equally
 2 and ratably secured by lien on the revenues and receipts, or for
 3 the issuance of subordinate lien bonds.

4 Sec. 58.034. GENERAL PROVISIONS RELATING TO BONDS. (a) The
 5 authority's bonds may be issued from time to time in one or more
 6 series or issues, in bearer, registered, or any other form, which
 7 may include registered uncertified obligations not represented by
 8 written instruments and commonly known as book-entry obligations,
 9 the registration of ownership and transfer of which shall be
 10 provided for by the authority under a system of books and records
 11 maintained by the authority or by an agent appointed by the
 12 authority in resolution providing for issuance of its bonds. Bonds
 13 may mature serially or otherwise not more than 40 years from their
 14 date. Bonds may bear no interest or may bear interest at any rate
 15 or rates, fixed, variable, floating, or otherwise, determined by
 16 the board or determined pursuant to any contractual arrangements
 17 approved by the board, not to exceed the maximum net effective
 18 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
 19 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
 20 Statutes). Interest on the bonds may be payable at any time, and
 21 the rate of interest on the bonds may be adjusted at such time as
 22 may be determined by the board or as may be determined pursuant to
 23 any contractual arrangement approved by the board. In connection
 24 with the issuance of its bonds, the board may exercise the powers
 25 granted to the governing body of an issuer in connection with the
 26 issuance of obligations under Chapter 656, Acts of the 68th
 27 Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas

1 Civil Statutes), to the extent not inconsistent with this chapter.

2 (b) The bonds issued under this chapter and interest
3 coupons, if any, are investment securities under the terms of
4 Chapter 8, Business & Commerce Code. The bonds are exempt
5 securities under The Securities Act (Article 581-1 et seq.,
6 Vernon's Texas Civil Statutes), and unless specifically provided
7 otherwise, under any subsequently enacted securities act. Any
8 contract, guaranty, or any other document executed in connection
9 with the issuance of bonds pursuant to this chapter is not a
10 security under The Securities Act (Article 581-1 et seq., Vernon's
11 Texas Civil Statutes), and, unless specifically provided otherwise,
12 any subsequently enacted securities act. The board is authorized
13 to do all things necessary to qualify the bonds for offer and sale
14 under the securities laws and regulations of the United States and
15 of the states and other jurisdictions in the United States as the
16 board shall determine.

17 (c) The bonds may be issued in the form and denominations
18 and executed in the manner and under the terms, conditions, and
19 details determined as provided by the board in the resolution
20 authorizing their issuance. If any officer whose manual or
21 facsimile signature appears on the bonds ceases to be an officer,
22 the signature is still valid and sufficient for all purposes as if
23 the officer had remained in office.

24 (d) All bonds issued by the authority are subject to review
25 and approval by the attorney general in the same manner and with
26 the same effect as is provided by Chapter 656, Acts of the 68th
27 Legislature, Regular Session, 1983 (Article 717g, Vernon's Texas

1 Civil Statutes).

2 (e) No fee may be charged by any other agency of this state
3 in connection with the issuance of the bonds or the allocation of a
4 portion of the state volume limitation on private activity bonds
5 either under executive order or legislative enactment. No
6 proceeding, notice, or approval is required for the issuance of any
7 bonds or any instrument as security except as provided by this Act.
8 Nothing in this subsection may be constituted to deprive the state
9 and its governmental subdivisions of their respective police powers
10 or to impair any police power of any official or agency of the
11 state or its subdivisions as may be provided by law.

12 (f) The state pledges to and agrees with the owners of any
13 bonds issued in accordance with this chapter that the state will
14 not limit or alter the rights vested in the authority to fulfill
15 the terms of any agreements made with the owners of the bonds or in
16 any way impair the rights and remedies of those owners until those
17 bonds, together with any premium and the interest on the bonds and
18 all costs and expenses in connection with any action or proceeding
19 by or on behalf of those owners, are fully met and discharged. The
20 authority is authorized to include this pledge and agreement of the
21 state in any agreement with the owners of those bonds.

22 (g) The bonds may be sold at public or private sale with or
23 without public bidding in the manner, at such rate or rates, price
24 or prices, and on such terms as may be determined by the board or
25 determined as provided in any contractual arrangement approved by
26 the board. The board also may enter into any contractual
27 arrangement under which the bonds are to be sold from time to time,

1 or subject to purchase, at such prices and rates, interest rate or
2 payment periods, and terms as determined pursuant to that
3 contractual arrangement approved by the board.

4 (h) Pending the preparation of definitive bonds, interim
5 receipts or certificates in the form and with the provisions that
6 are provided in the resolution may be issued to the purchaser or
7 purchasers of bonds sold under this chapter.

8 (i) The board may provide procedures for the replacement of
9 a mutilated, lost, stolen, or destroyed bond or interest coupon.

10 (j) The resolutions of the board issuing bonds may contain
11 other provisions and covenants as the board may determine.

12 (k) The board may adopt and have executed any other
13 proceedings or instruments necessary and convenient in the issuance
14 of bonds.

15 (l) The authority may not issue bonds after August 31, 1993.

16 Sec. 58.035. REFUNDING BONDS. The authority may issue,
17 sell, and deliver bonds to refund all or any part of its
18 outstanding bonds, including the payment of any redemption premium
19 and interest accrued, under such terms, conditions, and details as
20 determined by the board. Bonds issued by the authority may be
21 refunded in the manner provided by any other applicable statute,
22 including Chapter 503, Acts of the 54th Legislature, Regular
23 Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), and
24 Chapter 784, Acts of the 61st Legislature, Regular Session, 1969
25 (Article 717k-3, Vernon's Texas Civil Statutes). Bonds, the
26 provision for the payment of all interest and applicable premiums
27 on which and the principal of which has been made through the

1 irrevocable deposit of money with the treasurer in accordance with
2 the provisions of such an applicable statute, shall no longer be
3 charged against the issuing authority of the authority, and on the
4 making of such provision such issuing authority shall, to the
5 extent of the principal amount of such bonds, be restored.

6 Sec. 58.036. PAYMENT ENFORCEABLE BY MANDAMUS. Payment of
7 the bonds and performance by the authority or the commissioner of
8 its or his functions and duties under this chapter and the Texas
9 Constitution may be enforced in the state supreme court by mandamus
10 or other appropriate proceeding.

11 Sec. 58.037. BONDS AS INVESTMENTS. (a) The bonds are legal
12 and authorized investments for:

- 13 (1) banks;
- 14 (2) trust companies;
- 15 (3) savings and loan associations;
- 16 (4) insurance companies of all kinds and types;
- 17 (5) fiduciaries;
- 18 (6) trustees;
- 19 (7) guardians; and
- 20 (8) sinking and other public funds of the state,
21 municipalities, counties, school districts, and other political
22 subdivisions of the state.

23 (b) The bonds are eligible to secure the deposit of any
24 public funds of the state, municipalities, counties, school
25 districts, or other political subdivisions of the state, and the
26 bonds shall be lawful and sufficient security for the deposits to
27 the extent of their face value when accompanied by all unmatured

1 coupons attached to the bonds.

2 Sec. 58.038. TAX STATUS OF BONDS. The bonds issued by the
3 authority, any transaction relating to the bonds, and any profits
4 made in the sale of the bonds are free from taxation by the state
5 or by any city, county, special district, or other political
6 subdivision of the state; provided that this section does not
7 exempt the owner of any property financed under this chapter from
8 any ad valorem, sales, use, excise, or other tax levied by the
9 state or any political corporation of this state.

10 Sec. 58.039. REVIEW. Bonds may not be issued under this
11 chapter, and proceeds of bonds under this chapter may not be used
12 to finance a program unless the issuance or program, as applicable,
13 has been reviewed and approved by the review board.

14 Sec. 58.040. CONSIDERATIONS IN FINANCING. In determining
15 whether to provide financing under this chapter, the board shall
16 consider the likelihood of success of the applicant and the effect
17 of the financing on job creation and retention in the state. The
18 board shall give preference to applicants who are Texas residents
19 doing business in the state, and then to applicants who can
20 demonstrate that the financed activities will take place
21 predominantly in this state.

22 Sec. 58.041. GENERAL BONDS CONTINGENT. The provisions of
23 this section authorizing the issuance of general obligation bonds
24 are contingent on adoption of the constitutional amendment proposed
25 by H.J.R. No. 70, 71st Legislature, Regular Session, 1989. If that
26 amendment is not approved by the voters, those provisions have no
27 effect.

H.B. No. 1860

1 SECTION 9. The importance of this legislation and the
2 crowded condition of the calendars in both houses create an
3 emergency and an imperative public necessity that the
4 constitutional rule requiring bills to be read on three several
5 days in each house be suspended, and this rule is hereby suspended.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 4, 1989

TO: Honorable Al Luna, Chair
Committee on Science and Technology
House of Representatives
Austin, Texas

In Re: Committee Substitute for
House Bill No. 1860

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 1860 (relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would authorize the issuance of \$90 million in general obligation bonds and \$500 million in revenue bonds for the following purposes: \$45 million in general obligation bonds for the development of new or improved products in the state; \$20 million in general obligation bonds to stimulate the development of small business in the state; \$25 million in general obligation bonds to assist agricultural business in the state; and \$500 million in revenue bonds also to assist agricultural business in the state.

The bill would create the Texas Product Development Fund, the Small Business Incubator Fund, and the Texas Agricultural Fund to receive revenue from loan repayments and make debt service payments on general obligation bonds.

It is assumed that the revenue generated from loan repayments would be sufficient to pay the debt service on the general obligation bonds; however, if the revenue is insufficient to pay the debt service, a draw would be made on the General Revenue Fund to fund the difference. It is also assumed that the loan and grant programs created will be self-supporting from loan rates being higher than bond costs, loan origination fees, and investment earnings.

The bill also would allow the Texas Agricultural Finance Authority to establish funds to receive revenue from loan repayments and make debt service payments on revenue bonds. The revenue bonds would be repaid solely from the revenues generated from loans and would not constitute a pledge of the full faith and credit of the State.

Assuming a 20-year payout on the bonds at a 7.5 percent interest rate for general obligation bonds and a 7.75 percent interest rate for revenue bonds, the probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from General Obligation Bonds</u> | <u>Probable Debt Service Payments on General Obligation Bonds</u> |
|------------------------|--|---|
| 1990 | \$3,375,000 | \$3,375,000 |
| 1991 | 8,690,000 | 8,690,000 |
| 1992 | 8,690,000 | 8,690,000 |
| 1993 | 8,690,000 | 8,690,000 |
| 1994 | 8,690,000 | 8,690,000 |

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from Revenue Bonds</u> | <u>Probable Debt Service Payment on Revenue Bonds</u> |
|--------------------|---|---|
| 1990 | \$19,375,000 | \$19,375,000 |
| 1991 | 49,180,000 | 49,180,000 |
| 1992 | 49,180,000 | 49,180,000 |
| 1993 | 49,180,000 | 49,180,000 |
| 1994 | 49,180,000 | 49,180,000 |

| <u>Fiscal Year</u> | <u>Probable Revenue Gain to the Texas Department of Agriculture from Administrative Funds</u> | <u>Probable Operating Cost to the Texas Department of Agriculture</u> | <u>Probable Revenue Gain to the Texas Department of Commerce from Administrative Fees</u> |
|--------------------|---|---|---|
| 1990 | \$89,900 | \$89,900 | \$227,296 |
| 1991 | 83,900 | 83,900 | 222,295 |
| 1992 | 83,900 | 83,900 | 215,295 |
| 1993 | 83,900 | 83,900 | 215,295 |
| 1994 | 83,900 | 83,900 | 215,295 |

| <u>Fiscal Year</u> | <u>Probable Operating Cost to the Texas Department of Commerce</u> | <u>Change in Number of State Employees from FY 1989</u> |
|--------------------|--|---|
| 1990 | \$227,296 | + 6 |
| 1991 | 222,295 | + 6 |
| 1992 | 215,295 | + 6 |
| 1993 | 215,295 | + 6 |
| 1994 | 215,295 | + 6 |

Similar annual fiscal implications would continue through the year 2009. Total payout on the general obligation bonds is estimated to be \$177,108,750 and total payout on the revenue bonds is estimated to be \$1,002,982,752.

No fiscal implication to units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Comptroller of Public Accounts; Bond Review Board;
Public Finance Authority; Department of Agriculture;
Department of Commerce;
LBB Staff: JO, JWH, AL, TB, LV

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 11, 1989

TO: Honorable Al Luna, Chair
Committee on Science and Technology
House of Representatives
Austin, Texas

In Re: House Bill No. 1860
By: Colbert

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1860 (relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would authorize the issuance of \$70 million in general obligation bonds and \$500 million in revenue bonds for the following purposes: \$25 million in general obligation bonds for the development of new or improved products in the state; \$20 million in general obligation bonds to stimulate the development of small business in the state; \$25 million in general obligation bonds to assist agricultural business in the state; and \$500 million in revenue bonds also to assist agricultural business in the state.

The bill would authorize the Department of Commerce to use \$10 million of the general obligation bonds for challenge grants, which would be paid for out of the General Revenue Fund.

The bill would create the Texas Product Development Fund, the Small Business Incubator Fund, and the Texas Agricultural Fund to receive revenue from loan repayments and make debt service payments on general obligation bonds.

It is assumed that the revenue generated from loan repayments would be sufficient to pay the debt service on the general obligation bonds; however, if the revenue is insufficient to pay the debt service, a draw would be made on the General Revenue Fund to fund the difference. It is also assumed that the loan and grant programs created will be self-supporting from loan rates being higher than bond costs, loan origination fees, and investment earnings.

The bill also would allow the Texas Agricultural Finance Authority to establish funds to receive revenue from loan repayments and make debt service payments on revenue bonds. The revenue bonds would be repaid solely from the revenues generated from loans and would not constitute a pledge of the full faith and credit of the State.

Assuming a 20-year payout on the bonds at a 7.5 percent interest rate for general obligation bonds and a 7.75 percent interest rate for revenue bonds, the probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from General Obligation Bonds</u> | <u>Probable Debt Service Payments on General Obligation Bonds</u> |
|------------------------|--|---|
| 1990 | \$2,250,000 | \$2,250,000 |
| 1991 | 5,790,000 | 5,790,000 |
| 1992 | 5,790,000 | 5,790,000 |
| 1993 | 5,790,000 | 5,790,000 |
| 1994 | 5,790,000 | 5,790,000 |

| <u>Fiscal Year</u> | <u>Probable Debt Service Payments Out of the General Revenue Fund</u> | <u>Probable Revenue Gain from Revenue Bonds</u> | <u>Probable Debt Service Payment on Revenue Bonds</u> |
|--------------------|---|---|---|
| 1990 | \$375,000 | \$19,375,000 | \$19,375,000 |
| 1991 | 970,000 | 49,180,000 | 49,180,000 |
| 1992 | 970,000 | 49,180,000 | 49,180,000 |
| 1993 | 970,000 | 49,180,000 | 49,180,000 |
| 1994 | 970,000 | 49,180,000 | 49,180,000 |

Similar annual fiscal implications would continue through the year 2009. Total payout on the general obligation bonds is estimated to be \$137,750,000 and total payout on the revenue bonds is estimated to be \$1,002,982,752.

| <u>Fiscal Year</u> | <u>Probable Revenue Gain to the Texas Department of Agriculture from Administrative Funds</u> | <u>Probable Operating Cost to the Texas Department of Agriculture</u> | <u>Probable Revenue Gain to the Texas Department of Commerce from Administrative Fees</u> |
|--------------------|---|---|---|
| 1990 | \$89,900 | \$89,900 | \$227,296 |
| 1991 | 83,900 | 83,900 | 222,295 |
| 1992 | 83,900 | 83,900 | 215,295 |
| 1993 | 83,900 | 83,900 | 215,295 |
| 1994 | 83,900 | 83,900 | 215,295 |

| <u>Fiscal Year</u> | <u>Probable Operating Cost to the Texas Department of Commerce</u> | <u>Change in Number of State Employees from FY 1989</u> |
|--------------------|--|---|
| 1990 | \$227,296 | + 6 |
| 1991 | 222,295 | + 6 |
| 1992 | 215,295 | + 6 |
| 1993 | 215,295 | + 6 |
| 1994 | 215,295 | + 6 |

No fiscal implication to units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Comptroller of Public Accounts; Bond Review Board; Public Finance Authority; Department of Agriculture; Department of Commerce; LBB Staff: JO, JWH, AL, TB, CKM

SENATE FAVORABLE COMMITTEE REPORT

Lt. Governor William P. Hobby
President of the Senate

MAY 24, 1989 - 3:45pm
(date)/(time)

Sir:

We, your Committee on STATE AFFAIRS to which was referred
HB 1860 by COLBERT have on 5-24, 1989, had the same
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

☒ do pass and be printed

☐ do pass and be ordered not printed

☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☐ yes ☒ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

Senate Sponsor of House Measure GREEN

The measure was reported from Committee by the following vote:

| | YEA | NAY | PNV | ABSENT |
|--------------------------|-------------------------------------|-----|-----|-------------------------------------|
| Montford, Chairman | <input checked="" type="checkbox"/> | | | |
| Henderson, Vice Chairman | <input checked="" type="checkbox"/> | | | |
| Armbrister | <input checked="" type="checkbox"/> | | | |
| Caperton | | | | <input checked="" type="checkbox"/> |
| Edwards | <input checked="" type="checkbox"/> | | | |
| Glasgow | <input checked="" type="checkbox"/> | | | |
| Green | <input checked="" type="checkbox"/> | | | |
| Harris | | | | <input checked="" type="checkbox"/> |
| Leedom | <input checked="" type="checkbox"/> | | | |
| Lyon | <input checked="" type="checkbox"/> | | | |
| McFarland | <input checked="" type="checkbox"/> | | | |
| Parmer | | | | <input checked="" type="checkbox"/> |
| Washington | | | | <input checked="" type="checkbox"/> |
| TOTAL VOTES | 9 | 0 | 0 | 4 |

Morris Wilkes
COMMITTEE CLERK

Montford
CHAIRMAN

By: Colbert (Senate Sponsor - Green) H.B. No. 1860
(In the Senate - Received from the House May 19, 1989;
May 20, 1989, read first time and referred to Committee on State
Affairs; May 25, 1989, reported favorably by the following vote:
Yeas 9, Nays 0; May 25, 1989, sent to printer.)

COMMITTEE VOTE

| | Yea | Nay | PNV | Absent |
|------------|-----|-----|-----|--------|
| Montford | x | | | |
| Henderson | x | | | |
| Armbrister | x | | | |
| Caperton | | | | x |
| Edwards | x | | | |
| Glasgow | x | | | |
| Green | x | | | |
| Harris | | | | x |
| Leedom | x | | | |
| Lyon | x | | | |
| McFarland | x | | | |
| Parmer | | | | x |
| Washington | | | | x |

A BILL TO BE ENTITLED
AN ACT

relating to the issuance of bonds and for state financing of the
development and production of Texas products and businesses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.221, Government Code, as added by
S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
amended to read as follows:

Sec. 481.221. DEFINITIONS. In this subchapter:

(1) "Advisory board" means the Product Development
Advisory Board.

(2) [{"1}] "Executive director" means the executive
director of the department or the executive director's designee.

(3) "Fund" means the product development fund.

(4) "Office" means the Office of Advanced Technology
within the Texas Department of Commerce.

(5) [{"2}] "Product" means an invention, product,
device, technique, or process, without regard to whether a patent
has or could be granted, that is or may be exploitable
commercially. The term does not refer to pure research but
includes products, devices, techniques, or processes that have
advanced beyond the theoretical stage and have or are readily
capable of having a commercial application.

(6) [{"3}] "Venture financing" means a revolving loan,
loan guarantee, or equity investment from the Texas product
development fund to a person for use in the development of new or
improved products.

SECTION 2. Section 481.222, Government Code, as added by
S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
amended to read as follows:

Sec. 481.222. TEXAS PRODUCT DEVELOPMENT FUND; VENTURE
FINANCING. (a) The Texas product development fund is a revolving
fund in the state treasury. The fund consists of money
appropriated to the department, proceeds of bonds issued under this
subchapter, application fees, loan repayments, guarantee fees,
royalty receipts, dividend income, and other amounts received by
the state from loans, loan guarantees, and equity investments made
under this subchapter, other amounts received by the state for
loans or grants made under this subchapter, and money acquired from
federal grants or other sources and required by resolution of the
board to be deposited in the fund. The fund contains a program
account, an interest and sinking account, and other accounts that
the board authorizes to be created and maintained. Money in the
fund is available for use by the department under this subchapter.
(b) Money in the program account, minus the costs of
issuance of bonds under this subchapter and necessary costs of

administering the fund, may be used only to provide venture financing to aid in the development and for the commercialization of new or improved products. The department may provide venture financing from the fund for the purposes of designing and constructing new facilities, rehabilitating existing facilities, acquiring any interest in real or personal property, and providing initial working capital to pay the cost of salaries, rents, supplies, inventories, mortgage payments, legal services, and utilities and telephone, travel, and other incidental costs normally classified as working capital according to standard accounting principles. The department shall provide venture financing from the fund on the terms and conditions that the department determines to be reasonable, appropriate, and consistent with the purposes and objectives of the fund and this subchapter for the purpose of financing a new or improved product that is or may be exploitable commercially. The department may provide venture financing only if financing for the product being developed is not otherwise available on reasonable terms.

(c) Before approving the provision of venture financing to a person, the department shall enter into an agreement with the person under which the department will obtain an appropriate portion of royalties, patent rights, equitable interests, or a combination of those royalties, rights, and interests from or in the product or proceeds of the product for which venture financing is requested. Contracts executed under this subchapter must include agreements to ensure proper use of funds and the receipt of royalties, patent rights, or equity interest, as appropriate.

SECTION 3. Section 481.224, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.224. APPLICATION. (a) An application for venture financing must be delivered, together with a reasonable application fee prescribed by the department, to the executive director. The application shall contain a business plan, containing such information as required by the department, including at a minimum, ~~who shall conduct an investigation and prepare a report concerning the advisability of approving the application and concerning other factors considered relevant by the department. The executive director's report must include:~~

(1) information regarding the history and financial condition of the applicant, including the applicant's income statement, and information about the applicant's present markets and market prospects and about the integrity of the applicant's management; [and]

(2) a statement of the feasibility of the product for which financing is requested, including the state of development of the product and the likelihood of its commercialization; and [-]

(3) a description of attempts to obtain private financing, including documentation verifying such efforts and a clear description of the reasons such financing was denied.

(b) The ~~[For each application, the]~~ executive director shall ~~[also]~~ determine the following with respect to each application for venture financing ~~[whether]:~~

(1) ~~whether~~ the product for which financing is requested is economically sound, and ~~whether~~ ~~[;-(2)]~~ there is a reasonable expectation that the product will be successful;

(2) ~~whether~~ ~~[+3]~~ the product will create or preserve jobs and otherwise benefit the economy of the state;

(3) ~~whether~~ ~~[+4]~~ the applicant lacks the financial resources to complete the project, and ~~whether~~ ~~[;-(5)]~~ venture financing is necessary because financing is unavailable in traditional capital markets or credit has been offered on terms that would preclude the success of the project; and

(4) ~~whether~~ ~~[+6]~~ there is reasonable assurance that the potential revenues to be derived from the sale of the product will be sufficient to repay any venture financing approved by the department ~~[;-(7)]~~ with respect to patents, copyrights, and other ownership rights relative to the product, there is reasonable assurance that the product will be used to the maximum extent possible in facilities located in this state].

(c) The executive director shall submit the report to the department. After considering the report, together with [and] other information that the department considers appropriate, the department shall approve or deny the application for venture financing and promptly notify the applicant of its [the] decision.

SECTION 4. Section 481.225, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.225. INFORMATION CONFIDENTIAL. Information relating to a product, and the application or use of a product, and technological and scientific information, including computer programs, developed in whole or part by an applicant for or a recipient of venture financing, is confidential and is not subject to disclosure under state law or otherwise, regardless of whether the product is patentable or capable of being registered under copyright or trademark laws, or has a potential for being sold, traded, or licensed for a fee; however, nothing in this subchapter shall prevent or restrict the Office of Advanced Technology or the advisory board from obtaining information relating to a product or process from an applicant or recipient of a loan under this subchapter.

SECTION 5. Subchapter Q, Chapter 481, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended by adding Sections 481.226, 481.227, 481.228, and 481.229 to read as follows:

Sec. 481.226. ADVISORY BOARD. (a) The Product Development Advisory Board is composed of:

(1) one representative of the Texas Higher Education Coordinating Board selected by the Texas Higher Education Coordinating Board;

(2) two persons appointed by the governor;

(3) two persons appointed by the lieutenant governor;

and

(4) two persons appointed by the speaker of the house of representatives.

(b) In appointing members of the advisory board, the governor, lieutenant governor, and speaker of the house shall appoint persons having significant business leadership experience with emerging technologies, particularly experience with the transfer of research results into commercial application.

(c) Members of the advisory board serve two-year staggered terms with the terms of four members expiring February 1 of each odd-numbered year and the terms of three members expiring February 1 of each even-numbered year.

(d) The governor shall appoint the advisory board's chairman from among its members.

(e) The advisory board shall adopt rules establishing limits on the amount of each loan and otherwise governing the terms and conditions of the loans, specifically including requirements for appropriate security or collateral and the rights and remedies of the department in the event of a default on the loan. Such rules shall include a requirement that borrowers shall report to the advisory board on the use of money distributed through this fund.

Sec. 481.227. ELIGIBLE PROJECTS AND BORROWERS. (a) A loan may be made under this subchapter only to finance a project approved by the advisory board and the governing board of the Texas Department of Commerce.

(b) In determining eligible projects the advisory board and the board shall give special preference to projects that have the greatest likelihood of commercial success, specifically including but not limited to projects in the areas of biotechnology, biomedicine, energy, materials science, microelectronics, aerospace, marine science, aquaculture, telecommunications, manufacturing science, and other priority research areas as provided in Section 143.003 of the Education Code. The priority research area of agriculture will be funded according to the provisions of Subchapter D, Chapter 58, of the Agriculture Code. The advisory board further shall give consideration to: (1) grantees under the small business innovation research program established under 15 U.S.C. Section 638; (2) Texas companies

1 formed to commercialize research funded at least in part with state
2 funds; and (3) Texas companies receiving assistance from
3 designated state small business development centers.

4 Sec. 481.228. CONSIDERATION IN FINANCING. In determining
5 whether to provide financing under this subchapter, the board shall
6 consider the likelihood of success of the applicant and the effect
7 of the financing on job creation and retention in the state. The
8 board shall give preference to applicants who are Texas residents
9 doing business in the state and performing financed activities
10 predominantly in the state, and then to applicants who can
11 demonstrate that the financed activities will take place
12 predominantly in this state.

13 Sec. 481.229. BONDS. (a) The board may issue up to \$45
14 million of general obligation bonds and may use the proceeds of the
15 bonds to provide venture financing under this subchapter. The
16 board shall deposit the proceeds of the bonds in the Texas product
17 development fund and apply them in accordance with the resolution
18 authorizing the bonds. The Texas product development fund and any
19 accounts established in the fund shall be held in trust by the
20 state treasurer for and on behalf of the department and the owners
21 of the general obligation bonds issued in accordance with this
22 section, and may be used only as provided by this section. Pending
23 use, the treasurer may invest and reinvest money in the product
24 development fund in investments authorized by law for state funds
25 that the treasurer, consistent with the board's resolutions
26 authorizing the bonds, considers appropriate. Repayments of
27 financial assistance provided under this subchapter, together with
28 earnings received on investments of the product development funds,
29 shall be deposited, first, in the interest and sinking account as
30 prescribed by the board's resolutions authorizing bonds under this
31 subchapter, and, second, in any reserve account established by the
32 board until that account is fully funded as prescribed by the
33 board's resolutions. If, during the time any general obligation
34 bonds are payable from the interest and sinking account, the board
35 determines that there will not be sufficient money in the interest
36 and sinking account during the following fiscal year to pay the
37 principal of or interest on the general obligation bonds or both
38 the principal and interest that are to come due during the
39 following fiscal year, the comptroller of public accounts shall
40 transfer to the fund the first money coming into the state treasury
41 not otherwise appropriated by the constitution in an amount
42 sufficient to pay the obligations.

43 (b) The bonds may be issued from time to time in one or more
44 series or issues, in bearer, registered, or any other form, which
45 may include registered uncertificated obligations not represented
46 by written instruments and commonly known as book-entry
47 obligations, the registration of ownership and transfer of which
48 shall be provided for by the board under a system of books and
49 records maintained by the department or by an agent appointed by
50 the board in a resolution providing for issuance of its bonds.
51 Bonds may mature serially or otherwise not more than 40 years from
52 their date. Bonds may bear no interest or may bear interest at any
53 rate or rates, fixed, variable, floating, or otherwise, determined
54 by the board or determined pursuant to any contractual arrangements
55 approved by the board, not to exceed the maximum net effective
56 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
57 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
58 Statutes). Interest on the bonds may be payable at any time and
59 the rate of interest on the bonds may be adjusted at any time
60 determined by the board pursuant to the resolutions authorizing the
61 bonds or determined pursuant to any contractual arrangement
62 approved by the board. In connection with the issuance of its
63 bonds, the board may exercise the powers granted to the governing
64 body of an issuer in connection with the issuance of obligations
65 under Chapter 656, Acts of the 68th Legislature, Regular Session,
66 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent
67 not inconsistent with this section. The bonds may be issued in the
68 form and denominations and executed in the manner and under the
69 terms, conditions, and details determined by the board in the
70 resolution authorizing their issuance. If any officer whose manual

1 or facsimile signature appears on the bonds ceases to be an
2 officer, the signature remains valid and sufficient for all
3 purposes as if the officer had remained in office.

4 (c) All bonds issued by the board under this section are
5 subject to review and approval by the attorney general in the same
6 manner and with the same effect as is provided by Chapter 656, Acts
7 of the 68th Legislature, Regular Session, 1983 (Article 717q,
8 Vernon's Texas Civil Statutes).

9 (d) The bonds are a legal and authorized investment for a
10 bank, trust company, savings and loan association, insurance
11 company, fiduciary, trustee, or guardian or sinking fund of a
12 municipality, county, school district, or political subdivision of
13 the state. The bonds may secure deposits of public funds of the
14 state, a municipality, a county, a school district, or another
15 political corporation or subdivision of the state. The board may
16 issue bonds to refund all or part of its outstanding bonds,
17 including accrued but unpaid interest. The bonds, a transaction
18 relating to the bonds, or a profit made in the sale of the bonds is
19 exempt from taxation by the state, an agency or subdivision of the
20 state, a municipality, or a special district.

21 (e) This section is contingent on the adoption of the
22 constitutional amendment proposed by H.J.R. 70, Acts of the 71st
23 Legislature, Regular Session, 1989. If that proposed
24 constitutional amendment is not approved by the voters, this
25 section has no effect.

26 SECTION 6. Section 481.242, Government Code, as added by
27 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
28 amended to read as follows:

29 Sec. 481.242. SMALL BUSINESS INCUBATOR FUND. (a) The small
30 business incubator fund is a revolving fund in the state treasury.

31 (b) Money appropriated to the department, proceeds of bonds
32 issued under this subchapter, application fees, guarantee fees,
33 royalty receipts, dividend income, loan repayments, and other
34 amounts received by the state for loans, loan guarantees, equity in
35 investments, or grants made under this subchapter, and any other
36 money received by the department under this subchapter and required
37 by resolution of the board to be deposited in the fund, including
38 federal funds and the proceeds of any investment pools operated by
39 the treasurer shall be deposited to the credit of the fund.
40 Appropriated money in the fund may be applied and reapplied to the
41 purposes of this subchapter.

42 SECTION 7. Subchapter R, Chapter 481, Government Code, as
43 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
44 1989, is amended by adding Sections 481.244, 481.245, and 481.246
45 to read as follows:

46 Sec. 481.244. INVESTMENT POOLS. The department shall
47 develop programs encouraging the creation of local investment pools
48 to assist with the financing of businesses emerging from the
49 incubator.

50 Sec. 481.245. BONDS. (a) The board may issue up to \$20
51 million of general obligation bonds and may use the proceeds, less
52 the costs of issuance of the bonds, to carry out the small business
53 incubator program in accordance with the resolution authorizing the
54 bonds. The board shall deposit the proceeds of the bonds in the
55 small business incubator fund and apply them in accordance with the
56 resolution authorizing the bonds. The small business incubator
57 fund and any accounts established in the fund shall be held in
58 trust by the state treasurer for and on behalf of the department
59 and the owners of the general obligation bonds issued in accordance
60 with this section, and may be used only as provided by this
61 subchapter. Pending use, the treasurer may invest and reinvest
62 money in the small business incubator fund in investments
63 authorized by law for state funds that the treasurer, consistent
64 with the board's resolutions authorizing the bonds, considers
65 appropriate. Repayments of financial assistance provided under
66 this subchapter, together with earnings received on investments of
67 the small business incubator fund, shall be deposited, first, in
68 the interest and sinking account as prescribed by the board's
69 resolutions authorizing bonds under this section, and, second, in
70 any reserve account established by the board until that account is

1 fully funded as prescribed by the board's resolutions. If, during
 2 the time any general obligation bonds are payable from the interest
 3 and sinking account, the board determines that there will not be
 4 sufficient money in the interest and sinking account during the
 5 following fiscal year to pay the principal of or interest on the
 6 general obligation bonds or both the principal and interest that
 7 are to come due during the following fiscal year, the comptroller
 8 of public accounts shall transfer to the fund the first money
 9 coming into the state treasury not otherwise appropriated by the
 10 constitution in an amount sufficient to pay the obligations.

11 (b) The bonds may be issued from time to time in one or more
 12 series or issues, in bearer, registered, or any other form, which
 13 may include registered uncertificated obligations not represented
 14 by written instruments and commonly known as book-entry
 15 obligations, the registration of ownership and transfer of which
 16 shall be provided for by the board under a system of books and
 17 records maintained by the department or by an agent appointed by
 18 the board in a resolution providing for issuance of its bonds.
 19 Bonds may mature serially or otherwise not more than 40 years from
 20 their date. Bonds may bear no interest or may bear interest at any
 21 rate or rates, fixed, variable, floating, or otherwise, determined
 22 by the board or determined pursuant to any contractual arrangements
 23 approved by the board, not to exceed the maximum net effective
 24 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
 25 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
 26 Statutes). Interest on the bonds may be payable at any time and
 27 the rate of interest on the bonds may be adjusted at any time
 28 determined by the board pursuant to the resolutions authorizing the
 29 bonds or determined pursuant to any contractual arrangement
 30 approved by the board. In connection with the issuance of its
 31 bonds, the board may exercise the powers granted to the governing
 32 body of an issuer in connection with the issuance of obligations
 33 under Chapter 656, Acts of the 68th Legislature, Regular Session,
 34 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent
 35 not inconsistent with this section. The bonds may be issued in the
 36 form and denominations and executed in the manner and under the
 37 terms, conditions, and details determined by the board in the
 38 resolution authorizing their issuance. If any officer whose manual
 39 or facsimile signature appears on the bonds ceases to be an
 40 officer, the signature remains valid and sufficient for all
 41 purposes as if the officer had remained in office.

42 (c) All bonds issued by the board under this section are
 43 subject to review and approval by the attorney general in the same
 44 manner and with the same effect as is provided by Chapter 656, Acts
 45 of the 68th Legislature, Regular Session, 1983 (Article 717q,
 46 Vernon's Texas Civil Statutes).

47 (d) The bonds are a legal and authorized investment for a
 48 bank, trust company, savings and loan association, insurance
 49 company, fiduciary, trustee, or guardian or a sinking fund of a
 50 municipality, county, school district, or political subdivision of
 51 the state. The bonds may secure deposits of public funds of the
 52 state, a municipality, a county, a school district, or another
 53 political corporation or subdivision of the state. The department
 54 may issue bonds to refund all or part of its outstanding bonds,
 55 including accrued but unpaid interest. The bonds, a transaction
 56 relating to the bonds, or a profit made in the sale of the bonds is
 57 exempt from taxation by the state, an agency or subdivision of the
 58 state, a municipality, or a special district.

59 (e) This section is contingent on the adoption of the
 60 constitutional amendment proposed by H.J.R. 70, Acts of the 71st
 61 Legislature, Regular Session, 1989. If that proposed
 62 constitutional amendment is not approved by the voters, this
 63 section has no effect.

64 Sec. 481.246. CONSIDERATIONS IN FINANCING. In determining
 65 whether to provide financing under this subchapter, the board shall
 66 consider the likelihood of success of the applicant and the effect
 67 of the financing on job creation and retention in the state. The
 68 board shall give preference to applicants who are Texas residents
 69 doing business in the state, and then to applicants who can
 70 demonstrate that the financed activities will take place

predominantly in this state.

SECTION 8. Chapter 58, Agriculture Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. BONDS

Sec. 58.031. ISSUANCE OF GENERAL OBLIGATION BONDS. (a) The board by resolution may provide for the issuance of up to \$25 million of general obligation bonds as authorized by the Texas Constitution. The bonds shall be on a parity. The authority may issue bonds in one or several installments. Before authorizing the issuance of any general obligation bonds, the board must find that the issuance of revenue bonds was not an economically advisable alternative for carrying out this chapter.

(b) Proceeds of the bonds shall be deposited in the Texas agricultural fund and applied in accordance with the resolution authorizing the bonds:

(1) to provide financial assistance to eligible agricultural businesses;

(2) to pay costs of issuance of those bonds and the administration of any financial assistance program established with money in the Texas agricultural fund; and

(3) together with any other available funds, to pay the principal of or interest on or to discharge or redeem, in whole or in part, any outstanding bonds issued by the authority.

Sec. 58.032. TEXAS AGRICULTURAL FUND. (a) The Texas agricultural fund is a fund in the state treasury.

(b) The Texas agricultural fund may, at the direction of the board, receive from the state or federal government or from any other person, money that is to be administered by the authority in connection with the provision of financial assistance to eligible agricultural businesses, including those businesses engaged in the application of biotechnology to agriculture, under any program funded in whole or in part with the proceeds of general obligation bonds issued to carry out the purpose of this chapter.

(c) The board may provide for the establishment and maintenance of separate accounts within the Texas agricultural fund, including program accounts as prescribed by the board, an interest and sinking account, a reserve account, and other accounts provided for by the board in its resolutions. Repayments of financial assistance under any program funded in whole or in part with the proceeds of any series of general obligation bonds shall be deposited first in the interest and sinking account as prescribed by the board's resolutions authorizing such series of general obligation bonds, and second in the reserve account in respect of such series of general obligation bonds until that account is fully funded as prescribed by the board's resolutions. The fund and all accounts within it shall be kept and maintained at the direction of the board and held in trust by the state treasurer for and on behalf of the authority and the owners of the general obligation bonds issued in accordance with this chapter, and may be used only as provided by this chapter. Pending its use, money in the fund shall be invested as prescribed by the resolution by which the bonds were issued.

(d) To the extent the board determines that any money credited to the Texas agricultural fund from repayments of financial assistance is not required by Subsection (c) of this section and the resolutions of the board to be held in the interest and sinking account or reserve account to provide for the payment of the principal of and interest on the outstanding general obligation bonds issued by the authority, that money may be used by the authority to pay the principal of and interest on revenue bonds issued by the authority or for any other authorized purpose of the authority, in accordance with this chapter and the authority's resolutions authorizing general obligation bonds.

(e) If during the existence of the Texas agricultural fund or during the time any general obligation bonds are payable from the fund the board determines that there will not be sufficient money in the interest and sinking account during the following fiscal year to pay the principal of or interest on the general obligation bonds or both the principal and interest that are to come due during the following fiscal year, the comptroller of

public accounts shall transfer to the fund the first money coming into the state treasury not otherwise appropriated by the constitution in an amount sufficient to pay the obligations.

(f) The department may receive, and shall deposit in the Texas agricultural fund, appropriations, grants, donations, earned federal funds, and the proceeds of any investment pools operated by the treasurer. The Texas product development fund shall operate as a revolving fund the contents of which may be applied and reapplied to the purposes of this chapter.

Sec. 58.033. ISSUANCE OF REVENUE BONDS. (a) In addition to the authority to issue general obligation bonds, the authority may issue not more than \$500 million of revenue bonds for the purpose of the authority under this chapter. The authority shall establish and maintain funds and accounts, in accordance with Subsection (d) of this section, that the board considers necessary to ensure payment of the bonds and to provide for the use of the bond proceeds and the implementation of the program financed. Proceeds of revenue bonds shall be applied in accordance with the resolution authorizing those bonds:

(1) to provide financial assistance to eligible agricultural businesses;

(2) to pay costs of issuance of those bonds and the administration of any financial assistance program established by the authority; and

(3) together with any other available funds, to pay the principal of or interest on or to discharge or redeem, in whole or in part, any outstanding bonds issued by the authority.

(b) The authority's revenue bonds are obligations solely of the authority and are payable solely from funds of the authority that are pledged to the repayment of the revenue bonds. The authority may not use, except as provided in Section 58.032, or pledge money in the Texas agricultural fund to repayment of its revenue bonds. The authority's bonds are not and do not create or constitute a pledge, giving, or lending of the faith or credit or taxing power of the state. Each bond of the authority issued under this section must contain a statement to the effect that the state is not obligated to pay the principal of or any premium or interest on the bond, and that neither the faith or credit nor the taxing power of the state is pledged, given, or loaned to such a payment.

(c) Revenue bonds of the authority shall be payable as to principal, interest, and redemption premium, if any, from and secured by a first lien or a subordinate lien on and pledge of all or any part of the property, revenues, income, or other resources of the authority, as specified in the board's resolution authorizing issuance of those bonds, including mortgages or other interests in property financed, with the proceeds of such bonds, repayments of financial assistance, earnings from investments or deposits of the bonds of the authority, fees, charges, and any other amounts or payments received pursuant to this chapter, and any appropriations, grants, allocations, subsidies, supplements, guaranties, aid, contribution, or donations from the state or federal government or any other person.

(d) The board may make additional covenants with respect to the bonds and the pledged revenues and may provide for the flow of funds, the establishment and maintenance and investment of funds, which may include interest and sinking funds, reserve funds, program funds, and other funds. Those funds shall be kept and maintained in escrow and in trust by the state treasurer for and on behalf of the authority and the owners of its revenue bonds, in funds held outside the treasury pursuant to Section 404.073, Government Code. Those funds shall be used only as provided by this chapter, and pending their use shall be invested as provided by any resolution of the authority. Legal title to those funds shall be in the authority unless or until paid out as provided by this chapter or by the resolutions authorizing the authority's bonds. The state treasurer, as custodian, shall administer those funds strictly and only as provided by this chapter and in those resolutions. The treasurer shall invest the funds in investments authorized by law for state funds. The state shall take no action with respect to those funds other than that specified in this

chapter and in those resolutions.

(e) The board may provide in the resolution authorizing any revenue bonds for the issuance of additional bonds to be equally and ratably secured by lien on the revenues and receipts, or for the issuance of subordinate lien bonds.

Sec. 58.034. GENERAL PROVISIONS RELATING TO BONDS. (a) The authority's bonds may be issued from time to time in one or more series or issues, in bearer, registered, or any other form, which may include registered uncertified obligations not represented by written instruments and commonly known as book-entry obligations, the registration of ownership and transfer of which shall be provided for by the authority under a system of books and records maintained by the authority or by an agent appointed by the authority in resolution providing for issuance of its bonds. Bonds may mature serially or otherwise not more than 40 years from their date. Bonds may bear no interest or may bear interest at any rate or rates, fixed, variable, floating, or otherwise, determined by the board or determined pursuant to any contractual arrangements approved by the board, not to exceed the maximum net effective interest rate allowed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). Interest on the bonds may be payable at any time, and the rate of interest on the bonds may be adjusted at such time as may be determined by the board or as may be determined pursuant to any contractual arrangement approved by the board. In connection with the issuance of its bonds, the board may exercise the powers granted to the governing body of an issuer in connection with the issuance of obligations under Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent not inconsistent with this chapter.

(b) The bonds issued under this chapter and interest coupons, if any, are investment securities under the terms of Chapter 8, Business & Commerce Code. The bonds are exempt securities under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes), and unless specifically provided otherwise, under any subsequently enacted securities act. Any contract, guaranty, or any other document executed in connection with the issuance of bonds pursuant to this chapter is not a security under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes), and, unless specifically provided otherwise, any subsequently enacted securities act. The board is authorized to do all things necessary to qualify the bonds for offer and sale under the securities laws and regulations of the United States and of the states and other jurisdictions in the United States as the board shall determine.

(c) The bonds may be issued in the form and denominations and executed in the manner and under the terms, conditions, and details determined as provided by the board in the resolution authorizing their issuance. If any officer whose manual or facsimile signature appears on the bonds ceases to be an officer, the signature is still valid and sufficient for all purposes as if the officer had remained in office.

(d) All bonds issued by the authority are subject to review and approval by the attorney general in the same manner and with the same effect as is provided by Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(e) No fee may be charged by any other agency of this state in connection with the issuance of the bonds or the allocation of a portion of the state volume limitation on private activity bonds either under executive order or legislative enactment. No proceeding, notice, or approval is required for the issuance of any bonds or any instrument as security except as provided by this Act. Nothing in this subsection may be constituted to deprive the state and its governmental subdivisions of their respective police powers or to impair any police power of any official or agency of the state or its subdivisions as may be provided by law.

(f) The state pledges to and agrees with the owners of any bonds issued in accordance with this chapter that the state will not limit or alter the rights vested in the authority to fulfill

the terms of any agreements made with the owners of the bonds or in any way impair the rights and remedies of those owners until those bonds, together with any premium and the interest on the bonds and all costs and expenses in connection with any action or proceeding by or on behalf of those owners, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the owners of those bonds.

(g) The bonds may be sold at public or private sale with or without public bidding in the manner, at such rate or rates, price or prices, and on such terms as may be determined by the board or determined as provided in any contractual arrangement approved by the board. The board also may enter into any contractual arrangement under which the bonds are to be sold from time to time, or subject to purchase, at such prices and rates, interest rate or payment periods, and terms as determined pursuant to that contractual arrangement approved by the board.

(h) Pending the preparation of definitive bonds, interim receipts or certificates in the form and with the provisions that are provided in the resolution may be issued to the purchaser or purchasers of bonds sold under this chapter.

(i) The board may provide procedures for the replacement of a mutilated, lost, stolen, or destroyed bond or interest coupon.

(j) The resolutions of the board issuing bonds may contain other provisions and covenants as the board may determine.

(k) The board may adopt and have executed any other proceedings or instruments necessary and convenient in the issuance of bonds.

(l) The authority may not issue bonds after August 31, 1993.

Sec. 58.035. REFUNDING BONDS. The authority may issue, sell, and deliver bonds to refund all or any part of its outstanding bonds, including the payment of any redemption premium and interest accrued, under such terms, conditions, and details as determined by the board. Bonds issued by the authority may be refunded in the manner provided by any other applicable statute, including Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes). Bonds, the provision for the payment of all interest and applicable premiums on which and the principal of which has been made through the irrevocable deposit of money with the treasurer in accordance with the provisions of such an applicable statute, shall no longer be charged against the issuing authority of the authority, and on the making of such provision such issuing authority shall, to the extent of the principal amount of such bonds, be restored.

Sec. 58.036. PAYMENT ENFORCEABLE BY MANDAMUS. Payment of the bonds and performance by the authority or the commissioner of its or his functions and duties under this chapter and the Texas Constitution may be enforced in the state supreme court by mandamus or other appropriate proceeding.

Sec. 58.037. BONDS AS INVESTMENTS. (a) The bonds are legal and authorized investments for:

- (1) banks;
- (2) trust companies;
- (3) savings and loan associations;
- (4) insurance companies of all kinds and types;
- (5) fiduciaries;
- (6) trustees;
- (7) guardians; and
- (8) sinking and other public funds of the state, municipalities, counties, school districts, and other political subdivisions of the state.

(b) The bonds are eligible to secure the deposit of any public funds of the state, municipalities, counties, school districts, or other political subdivisions of the state, and the bonds shall be lawful and sufficient security for the deposits to the extent of their face value when accompanied by all unmatured coupons attached to the bonds.

Sec. 58.038. TAX STATUS OF BONDS. The bonds issued by the authority, any transaction relating to the bonds, and any profits

1 made in the sale of the bonds are free from taxation by the state
2 or by any city, county, special district, or other political
3 subdivision of the state; provided that this section does not
4 exempt the owner of any property financed under this chapter from
5 any ad valorem, sales, use, excise, or other tax levied by the
6 state or any political corporation of this state.

7 Sec. 58.039. REVIEW. Bonds may not be issued under this
8 chapter, and proceeds of bonds under this chapter may not be used
9 to finance a program unless the issuance or program, as applicable,
10 has been reviewed and approved by the review board.

11 Sec. 58.040. CONSIDERATIONS IN FINANCING. In determining
12 whether to provide financing under this chapter, the board shall
13 consider the likelihood of success of the applicant and the effect
14 of the financing on job creation and retention in the state. The
15 board shall give preference to applicants who are Texas residents
16 doing business in the state, and then to applicants who can
17 demonstrate that the financed activities will take place
18 predominantly in this state.

19 Sec. 58.041. GENERAL BONDS CONTINGENT. The provisions of
20 this section authorizing the issuance of general obligation bonds
21 are contingent on adoption of the constitutional amendment proposed
22 by H.J.R. No. 70, 71st Legislature, Regular Session, 1989. If that
23 amendment is not approved by the voters, those provisions have no
24 effect.

25 SECTION 9. The importance of this legislation and the
26 crowded condition of the calendars in both houses create an
27 emergency and an imperative public necessity that the
28 constitutional rule requiring bills to be read on three several
29 days in each house be suspended, and this rule is hereby suspended.

30 * * * * *

31 Austin, Texas
32 May 25, 1989

33 Hon. William P. Hobby
34 President of the Senate

35 Sir:

36 We, your Committee on State Affairs to which was referred H.B.
37 No. 1860, have had the same under consideration, and I am
38 instructed to report it back to the Senate with the recommendation
39 that it do pass and be printed.

40 Montford, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 22, 1989

TO: Honorable John T. Montford, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

In Re: House Bill No. 1860,
as engrossed
By: Colbert

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1860, as engrossed (relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would authorize the issuance of \$90 million in general obligation bonds and \$500 million in revenue bonds for the following purposes: \$45 million in general obligation bonds for the development of new or improved products in the state; \$20 million in general obligation bonds to stimulate the development of small business in the state; \$25 million in general obligation bonds to assist agricultural business in the state; and \$500 million in revenue bonds also to assist agricultural business in the state.

The bill would create the Texas Product Development Fund, the Small Business Incubator Fund, and the Texas Agricultural Fund to receive revenue from loan repayments and make debt service payments on general obligation bonds.

It is assumed that the revenue generated from loan repayments would be sufficient to pay the debt service on the general obligation bonds; however, if the revenue is insufficient to pay the debt service, a draw would be made on the General Revenue Fund to fund the difference. It is also assumed that the loan and grant programs created will be self-supporting from loan rates being higher than bond costs, loan origination fees, and investment earnings.

The bill also would allow the Texas Agricultural Finance Authority to establish funds to receive revenue from loan repayments and make debt service payments on revenue bonds. The revenue bonds would be repaid solely from the revenues generated from loans and would not constitute a pledge of the full faith and credit of the State.

Assuming a 20-year payout on the bonds at a 7.5 percent interest rate for general obligation bonds and a 7.75 percent interest rate for revenue bonds, the probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from General Obligation Bonds</u> | <u>Probable Debt Service Payments on General Obligation Bonds</u> |
|------------------------|--|---|
| 1990 | \$3,375,000 | \$3,375,000 |
| 1991 | 8,690,000 | 8,690,000 |
| 1992 | 8,690,000 | 8,690,000 |
| 1993 | 8,690,000 | 8,690,000 |
| 1994 | 8,690,000 | 8,690,000 |

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from Revenue Bonds</u> | <u>Probable Debt Service Payment on Revenue Bonds</u> |
|--------------------|---|---|
| 1990 | \$19,375,000 | \$19,375,000 |
| 1991 | 49,180,000 | 49,180,000 |
| 1992 | 49,180,000 | 49,180,000 |
| 1993 | 49,180,000 | 49,180,000 |
| 1994 | 49,180,000 | 49,180,000 |

| <u>Fiscal Year</u> | <u>Probable Revenue Gain to the Texas Department of Agriculture from Administrative Funds</u> | <u>Probable Operating Cost to the Texas Department of Agriculture</u> | <u>Probable Revenue Gain to the Texas Department of Commerce from Administrative Fees</u> |
|--------------------|---|---|---|
| 1990 | \$89,900 | \$89,900 | \$227,296 |
| 1991 | 83,900 | 83,900 | 222,295 |
| 1992 | 83,900 | 83,900 | 215,295 |
| 1993 | 83,900 | 83,900 | 215,295 |
| 1994 | 83,900 | 83,900 | 215,295 |

| <u>Fiscal Year</u> | <u>Probable Operating Cost to the Texas Department of Commerce</u> | <u>Change in Number of State Employees from FY 1989</u> |
|--------------------|--|---|
| 1990 | \$227,296 | + 6 |
| 1991 | 222,295 | + 6 |
| 1992 | 215,295 | + 6 |
| 1993 | 215,295 | + 6 |
| 1994 | 215,295 | + 6 |

Similar annual fiscal implications would continue through the year 2009. Total payout on the general obligation bonds is estimated to be \$177,108,750 and total payout on the revenue bonds is estimated to be \$1,002,982,752.

No fiscal implication to units of local government is anticipated.

Source: Comptroller of Public Accounts; Bond Review Board;
Public Finance Authority; Department of Agriculture;
Department of Commerce;
LBB Staff: JO, JWH, AL, TB, CKM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 4, 1989

TO: Honorable Al Luna, Chair
Committee on Science and Technology
House of Representatives
Austin, Texas

In Re: Committee Substitute for
House Bill No. 1860

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 1860 (relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would authorize the issuance of \$90 million in general obligation bonds and \$500 million in revenue bonds for the following purposes: \$45 million in general obligation bonds for the development of new or improved products in the state; \$20 million in general obligation bonds to stimulate the development of small business in the state; \$25 million in general obligation bonds to assist agricultural business in the state; and \$500 million in revenue bonds also to assist agricultural business in the state.

The bill would create the Texas Product Development Fund, the Small Business Incubator Fund, and the Texas Agricultural Fund to receive revenue from loan repayments and make debt service payments on general obligation bonds.

It is assumed that the revenue generated from loan repayments would be sufficient to pay the debt service on the general obligation bonds; however, if the revenue is insufficient to pay the debt service, a draw would be made on the General Revenue Fund to fund the difference. It is also assumed that the loan and grant programs created will be self-supporting from loan rates being higher than bond costs, loan origination fees, and investment earnings.

The bill also would allow the Texas Agricultural Finance Authority to establish funds to receive revenue from loan repayments and make debt service payments on revenue bonds. The revenue bonds would be repaid solely from the revenues generated from loans and would not constitute a pledge of the full faith and credit of the State.

Assuming a 20-year payout on the bonds at a 7.5 percent interest rate for general obligation bonds and a 7.75 percent interest rate for revenue bonds, the probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from General Obligation Bonds</u> | <u>Probable Debt Service Payments on General Obligation Bonds</u> |
|------------------------|--|---|
| 1990 | \$3,375,000 | \$3,375,000 |
| 1991 | 8,690,000 | 8,690,000 |
| 1992 | 8,690,000 | 8,690,000 |
| 1993 | 8,690,000 | 8,690,000 |
| 1994 | 8,690,000 | 8,690,000 |

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from Revenue Bonds</u> | <u>Probable Debt Service Payment on Revenue Bonds</u> |
|--------------------|---|---|
| 1990 | \$19,375,000 | \$19,375,000 |
| 1991 | 49,180,000 | 49,180,000 |
| 1992 | 49,180,000 | 49,180,000 |
| 1993 | 49,180,000 | 49,180,000 |
| 1994 | 49,180,000 | 49,180,000 |

| <u>Fiscal Year</u> | <u>Probable Revenue Gain to the Texas Department of Agriculture from Administrative Funds</u> | <u>Probable Operating Cost to the Texas Department of Agriculture</u> | <u>Probable Revenue Gain to the Texas Department of Commerce from Administrative Fees</u> |
|--------------------|---|---|---|
| 1990 | \$89,900 | \$89,900 | \$227,296 |
| 1991 | 83,900 | 83,900 | 222,295 |
| 1992 | 83,900 | 83,900 | 215,295 |
| 1993 | 83,900 | 83,900 | 215,295 |
| 1994 | 83,900 | 83,900 | 215,295 |

| <u>Fiscal Year</u> | <u>Probable Operating Cost to the Texas Department of Commerce</u> | <u>Change in Number of State Employees from FY 1989</u> |
|--------------------|--|---|
| 1990 | \$227,296 | + 6 |
| 1991 | 222,295 | + 6 |
| 1992 | 215,295 | + 6 |
| 1993 | 215,295 | + 6 |
| 1994 | 215,295 | + 6 |

Similar annual fiscal implications would continue through the year 2009. Total payout on the general obligation bonds is estimated to be \$177,108,750 and total payout on the revenue bonds is estimated to be \$1,002,982,752.

No fiscal implication to units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Comptroller of Public Accounts; Bond Review Board;
Public Finance Authority; Department of Agriculture;
Department of Commerce;
LBB Staff: JO, JWH, AL, TB, LV

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 11, 1989

TO: Honorable Al Luna, Chair
Committee on Science and Technology
House of Representatives
Austin, Texas

In Re: House Bill No. 1860
By: Colbert

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1860 (relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would authorize the issuance of \$70 million in general obligation bonds and \$500 million in revenue bonds for the following purposes: \$25 million in general obligation bonds for the development of new or improved products in the state; \$20 million in general obligation bonds to stimulate the development of small business in the state; \$25 million in general obligation bonds to assist agricultural business in the state; and \$500 million in revenue bonds also to assist agricultural business in the state.

The bill would authorize the Department of Commerce to use \$10 million of the general obligation bonds for challenge grants, which would be paid for out of the General Revenue Fund.

The bill would create the Texas Product Development Fund, the Small Business Incubator Fund, and the Texas Agricultural Fund to receive revenue from loan repayments and make debt service payments on general obligation bonds.

It is assumed that the revenue generated from loan repayments would be sufficient to pay the debt service on the general obligation bonds; however, if the revenue is insufficient to pay the debt service, a draw would be made on the General Revenue Fund to fund the difference. It is also assumed that the loan and grant programs created will be self-supporting from loan rates being higher than bond costs, loan origination fees, and investment earnings.

The bill also would allow the Texas Agricultural Finance Authority to establish funds to receive revenue from loan repayments and make debt service payments on revenue bonds. The revenue bonds would be repaid solely from the revenues generated from loans and would not constitute a pledge of the full faith and credit of the State.

Assuming a 20-year payout on the bonds at a 7.5 percent interest rate for general obligation bonds and a 7.75 percent interest rate for revenue bonds, the probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from General Obligation Bonds</u> | <u>Probable Debt Service Payments on General Obligation Bonds</u> |
|------------------------|--|---|
| 1990 | \$2,250,000 | \$2,250,000 |
| 1991 | 5,790,000 | 5,790,000 |
| 1992 | 5,790,000 | 5,790,000 |
| 1993 | 5,790,000 | 5,790,000 |
| 1994 | 5,790,000 | 5,790,000 |

| <u>Fiscal Year</u> | <u>Probable Debt Service Payments Out of the General Revenue Fund</u> | <u>Probable Revenue Gain from Revenue Bonds</u> | <u>Probable Debt Service Payment on Revenue Bonds</u> |
|--------------------|---|---|---|
| 1990 | \$375,000 | \$19,375,000 | \$19,375,000 |
| 1991 | 970,000 | 49,180,000 | 49,180,000 |
| 1992 | 970,000 | 49,180,000 | 49,180,000 |
| 1993 | 970,000 | 49,180,000 | 49,180,000 |
| 1994 | 970,000 | 49,180,000 | 49,180,000 |

Similar annual fiscal implications would continue through the year 2009. Total payout on the general obligation bonds is estimated to be \$137,750,000 and total payout on the revenue bonds is estimated to be \$1,002,982,752.

| <u>Fiscal Year</u> | <u>Probable Revenue Gain to the Texas Department of Agriculture from Administrative Funds</u> | <u>Probable Operating Cost to the Texas Department of Agriculture</u> | <u>Probable Revenue Gain to the Texas Department of Commerce from Administrative Fees</u> |
|--------------------|---|---|---|
| 1990 | \$89,900 | \$89,900 | \$227,296 |
| 1991 | 83,900 | 83,900 | 222,295 |
| 1992 | 83,900 | 83,900 | 215,295 |
| 1993 | 83,900 | 83,900 | 215,295 |
| 1994 | 83,900 | 83,900 | 215,295 |

| <u>Fiscal Year</u> | <u>Probable Operating Cost to the Texas Department of Commerce</u> | <u>Change in Number of State Employees from FY 1989</u> |
|--------------------|--|---|
| 1990 | \$227,296 | + 6 |
| 1991 | 222,295 | + 6 |
| 1992 | 215,295 | + 6 |
| 1993 | 215,295 | + 6 |
| 1994 | 215,295 | + 6 |

No fiscal implication to units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Comptroller of Public Accounts; Bond Review Board;
 Public Finance Authority; Department of Agriculture;
 Department of Commerce;
 LBB Staff: JO, JWH, AL, TB, CKM

AMEND THE CAPTION TO CONFORM
TO THE BODY OF THE BILL

ADOPTED

MAY 27 1989

Anthony Pina
Secretary of the Senate

ADOPTED

MAY 27 1969

Long

Prof AMENDMENT NO. 1

BY Green

1 Amend HB 1860 As follows:

2

3 Amend HB 1860 on page 3, line 47 by deleting the words 'The
4 advisory board' and substituting in lieu thereof the words 'On
5 recommendation of the advisory board, the department'; and

6

7 on page 3, line 56 by deleting the words 'governing board of
8 the Texas Department of Commerce' and inserting in lieu thereof
9 the word 'department'; and

10

11 on page 3, line 59 by deleting the words 'the board' and
12 inserting in lieu thereof the words 'department'; and

13

14 on page 4, line 5 by deleting the word 'board' and inserting
15 in lieu thereof the word 'department'; and

16

17 on page 4, line 13 by deleting the number '\$45' and inserting
18 in lieu thereof the number '\$25'; and

19 ON PAGE 6, LINE 60, AND

20 on page 11, line 22, and on page 5, line 22 delete the words
21 'HJR 70' and inserting in lieu thereof the words 'HJR 51'.

22

23

24

COMMITTEE 23 11:12:41

SENATE AMENDMENTS

2nd Printing

By Colbert

H.B. No. 1860

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.221, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.221. DEFINITIONS. In this subchapter:

(1) "Advisory board" means the Product Development Advisory Board.

(2) [~~1~~] "Executive director" means the executive director of the department or the executive director's designee.

(3) "Fund" means the product development fund.

(4) "Office" means the Office of Advanced Technology within the Texas Department of Commerce.

(5) [~~2~~] "Product" means an invention, product, device, technique, or process, without regard to whether a patent has or could be granted, that is or may be exploitable commercially. The term does not refer to pure research but includes products, devices, techniques, or processes that have advanced beyond the theoretical stage and have or are readily capable of having a commercial application.

(6) [~~3~~] "Venture financing" means a revolving loan, loan guarantee, or equity investment from the Texas product

1 development fund to a person for use in the development of new or
2 improved products.

3 SECTION 2. Section 481.222, Government Code, as added by
4 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
5 amended to read as follows:

6 Sec. 481.222. TEXAS PRODUCT DEVELOPMENT FUND; VENTURE
7 FINANCING. (a) The Texas product development fund is a revolving
8 fund in the state treasury. The fund consists of money
9 appropriated to the department, proceeds of bonds issued under this
10 subchapter, application fees, loan repayments, guarantee fees,
11 royalty receipts, dividend income, and other amounts received by
12 the state from loans, loan guarantees, and equity investments made
13 under this subchapter, other amounts received by the state for
14 loans or grants made under this subchapter, and money acquired from
15 federal grants or other sources and required by resolution of the
16 board to be deposited in the fund. The fund contains a program
17 account, an interest and sinking account, and other accounts that
18 the board authorizes to be created and maintained. Money in the
19 fund is available for use by the department under this subchapter.

20 (b) Money in the program account, minus the costs of
21 issuance of bonds under this subchapter and necessary costs of
22 administering the fund, may be used only to provide venture
23 financing to aid in the development and for the commercialization
24 of new or improved products. The department may provide venture
25 financing from the fund for the purposes of designing and
26 constructing new facilities, rehabilitating existing facilities,
27 acquiring any interest in real or personal property, and providing

1 initial working capital to pay the cost of salaries, rents,
 2 supplies, inventories, mortgage payments, legal services, and
 3 utilities and telephone, travel, and other incidental costs
 4 normally classified as working capital according to standard
 5 accounting principles. The department shall provide venture
 6 financing from the fund on the terms and conditions that the
 7 department determines to be reasonable, appropriate, and consistent
 8 with the purposes and objectives of the fund and this subchapter
 9 for the purpose of financing a new or improved product that is or
 10 may be exploitable commercially. The department may provide
 11 venture financing only if financing for the product being developed
 12 is not otherwise available on reasonable terms.

13 (c) Before approving the provision of venture financing to a
 14 person, the department shall enter into an agreement with the
 15 person under which the department will obtain an appropriate
 16 portion of royalties, patent rights, equitable interests, or a
 17 combination of those royalties, rights, and interests from or in
 18 the product or proceeds of the product for which venture financing
 19 is requested. Contracts executed under this subchapter must
 20 include agreements to ensure proper use of funds and the receipt of
 21 royalties, patent rights, or equity interest, as appropriate.

22 SECTION 3. Section 481.224, Government Code, as added by
 23 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
 24 amended to read as follows:

25 Sec. 481.224. APPLICATION. (a) An application for venture
 26 financing must be delivered, together with a reasonable application
 27 fee prescribed by the department, to the executive director. The

1 application shall contain a business plan, containing such
 2 information as required by the department, including at a minimum[7
 3 ~~who--shall-conduct-an-investigation-and-prepare-a-report-concerning~~
 4 ~~the-advisability-of-approving-the-application-and-concerning--other~~
 5 ~~factors--considered--relevant--by--the--department, ---The-executive~~
 6 ~~director's-report-must-include]:~~

7 (1) information regarding the history and financial
 8 condition of the applicant, including the applicant's income
 9 statement, and information about the applicant's present markets
 10 and market prospects and about the integrity of the applicant's
 11 management; [and]

12 (2) a statement of the feasibility of the product for
 13 which financing is requested, including the state of development of
 14 the product and the likelihood of its commercialization; and[-]

15 (3) a description of attempts to obtain private
 16 financing, including documentation verifying such efforts and a
 17 clear description of the reasons such financing was denied.

18 (b) The [For-each-application,-the] executive director shall
 19 [also] determine the following with respect to each application for
 20 venture financing [whether]:

21 (1) whether the product for which financing is
 22 requested is economically sound, and whether[7--(2)] there is a
 23 reasonable expectation that the product will be successful;

24 (2) whether [(3)] the product will create or preserve
 25 jobs and otherwise benefit the economy of the state;

26 (3) whether [(4)] the applicant lacks the financial
 27 resources to complete the project, and whether[7-(5)] venture

financing is necessary because financing is unavailable in traditional capital markets or credit has been offered on terms that would preclude the success of the project; and

(4) whether [~~(6)~~] there is reasonable assurance that the potential revenues to be derived from the sale of the product will be sufficient to repay any venture financing approved by the department[~~(7)-and-(7)-with-respect-to-patents,-copyrights,-and-other-ownership--rights--relative--to--the--product,-there-is-reasonable-assurance-that-the-product-will--be--used--to--the--maximum--extent-possible-in-facilities-located-in-this-state~~].

(c) The executive director shall submit the report to the department. After considering the report, together with [~~and~~] other information that the department considers appropriate, the department shall approve or deny the application for venture financing and promptly notify the applicant of its [~~the~~] decision.

SECTION 4. Section 481.225, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.225. INFORMATION CONFIDENTIAL. Information relating to a product, and the application or use of a product, and technological and scientific information, including computer programs, developed in whole or part by an applicant for or a recipient of venture financing, is confidential and is not subject to disclosure under state law or otherwise, regardless of whether the product is patentable or capable of being registered under copyright or trademark laws, or has a potential for being sold, traded, or licensed for a fee; however, nothing in this subchapter

1 shall prevent or restrict the Office of Advanced Technology or the
2 advisory board from obtaining information relating to a product or
3 process from an applicant or recipient of a loan under this
4 subchapter.

5 SECTION 5. Subchapter Q, Chapter 481, Government Code, as
6 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
7 1989, is amended by adding Sections 481.226, 481.227, 481.228, and
8 481.229 to read as follows:

9 Sec. 481.226. ADVISORY BOARD. (a) The Product Development
10 Advisory Board is composed of:

11 (1) one representative of the Texas Higher Education
12 Coordinating Board selected by the Texas Higher Education
13 Coordinating Board;

14 (2) two persons appointed by the governor;
15 (3) two persons appointed by the lieutenant governor;
16 and

17 (4) two persons appointed by the speaker of the house
18 of representatives.

19 (b) In appointing members of the advisory board, the
20 governor, lieutenant governor, and speaker of the house shall
21 appoint persons having significant business leadership experience
22 with emerging technologies, particularly experience with the
23 transfer of research results into commercial application.

24 (c) Members of the advisory board serve two-year staggered
25 terms with the terms of four members expiring February 1 of each
26 odd-numbered year and the terms of three members expiring February
27 1 of each even-numbered year.

1 (d) The governor shall appoint the advisory board's chairman
2 from among its members.

3 (e) The advisory board shall adopt rules establishing limits
4 on the amount of each loan and otherwise governing the terms and
5 conditions of the loans, specifically including requirements for
6 appropriate security or collateral and the rights and remedies of
7 the department in the event of a default on the loan. Such rules
8 shall include a requirement that borrowers shall report to the
9 advisory board on the use of money distributed through this fund.

10 Sec. 481.227. ELIGIBLE PROJECTS AND BORROWERS. (a) A loan
11 may be made under this subchapter only to finance a project
12 approved by the advisory board and the governing board of the Texas
13 Department of Commerce.

14 (b) In determining eligible projects the advisory board and
15 the board shall give special preference to projects that have the
16 greatest likelihood of commercial success, specifically including
17 but not limited to projects in the areas of biotechnology,
18 biomedicine, energy, materials science, microelectronics,
19 aerospace, marine science, aquaculture, telecommunications,
20 manufacturing science, and other priority research areas as
21 provided in Section 143.003 of the Education Code. The priority
22 research area of agriculture will be funded according to the
23 provisions of Subchapter D, Chapter 58, of the Agriculture Code.
24 The advisory board further shall give consideration to: (1)
25 grantees under the small business innovation research program
26 established under 15 U.S.C. Section 638; (2) Texas companies
27 formed to commercialize research funded at least in part with state

1 funds; and (3) Texas companies receiving assistance from
2 designated state small business development centers.

3 Sec. 481.228. CONSIDERATION IN FINANCING. In determining
4 whether to provide financing under this subchapter, the board shall
5 consider the likelihood of success of the applicant and the effect
6 of the financing on job creation and retention in the state. The
7 board shall give preference to applicants who are Texas residents
8 doing business in the state and performing financed activities
9 predominantly in the state, and then to applicants who can
10 demonstrate that the financed activities will take place
11 predominantly in this state.

12 Sec. 481.229. BONDS. (a) The board may issue up to \$45
13 million of general obligation bonds and may use the proceeds of the
14 bonds to provide venture financing under this subchapter. The
15 board shall deposit the proceeds of the bonds in the Texas product
16 development fund and apply them in accordance with the resolution
17 authorizing the bonds. The Texas product development fund and any
18 accounts established in the fund shall be held in trust by the
19 state treasurer for and on behalf of the department and the owners
20 of the general obligation bonds issued in accordance with this
21 section, and may be used only as provided by this section. Pending
22 use, the treasurer may invest and reinvest money in the product
23 development fund in investments authorized by law for state funds
24 that the treasurer, consistent with the board's resolutions
25 authorizing the bonds, considers appropriate. Repayments of
26 financial assistance provided under this subchapter, together with
27 earnings received on investments of the product development funds,

1 shall be deposited, first, in the interest and sinking account as
2 prescribed by the board's resolutions authorizing bonds under this
3 subchapter, and, second, in any reserve account established by the
4 board until that account is fully funded as prescribed by the
5 board's resolutions. If, during the time any general obligation
6 bonds are payable from the interest and sinking account, the board
7 determines that there will not be sufficient money in the interest
8 and sinking account during the following fiscal year to pay the
9 principal of or interest on the general obligation bonds or both
10 the principal and interest that are to come due during the
11 following fiscal year, the comptroller of public accounts shall
12 transfer to the fund the first money coming into the state treasury
13 not otherwise appropriated by the constitution in an amount
14 sufficient to pay the obligations.

15 (b) The bonds may be issued from time to time in one or more
16 series or issues, in bearer, registered, or any other form, which
17 may include registered uncertificated obligations not represented
18 by written instruments and commonly known as book-entry
19 obligations, the registration of ownership and transfer of which
20 shall be provided for by the board under a system of books and
21 records maintained by the department or by an agent appointed by
22 the board in a resolution providing for issuance of its bonds.
23 Bonds may mature serially or otherwise not more than 40 years from
24 their date. Bonds may bear no interest or may bear interest at any
25 rate or rates, fixed, variable, floating, or otherwise, determined
26 by the board or determined pursuant to any contractual arrangements
27 approved by the board, not to exceed the maximum net effective

1 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
2 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
3 Statutes). Interest on the bonds may be payable at any time and
4 the rate of interest on the bonds may be adjusted at any time
5 determined by the board pursuant to the resolutions authorizing the
6 bonds or determined pursuant to any contractual arrangement
7 approved by the board. In connection with the issuance of its
8 bonds, the board may exercise the powers granted to the governing
9 body of an issuer in connection with the issuance of obligations
10 under Chapter 656, Acts of the 68th Legislature, Regular Session,
11 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent
12 not inconsistent with this section. The bonds may be issued in the
13 form and denominations and executed in the manner and under the
14 terms, conditions, and details determined by the board in the
15 resolution authorizing their issuance. If any officer whose manual
16 or facsimile signature appears on the bonds ceases to be an
17 officer, the signature remains valid and sufficient for all
18 purposes as if the officer had remained in office.

19 (c) All bonds issued by the board under this section are
20 subject to review and approval by the attorney general in the same
21 manner and with the same effect as is provided by Chapter 656, Acts
22 of the 68th Legislature, Regular Session, 1983 (Article 717q,
23 Vernon's Texas Civil Statutes).

24 (d) The bonds are a legal and authorized investment for a
25 bank, trust company, savings and loan association, insurance
26 company, fiduciary, trustee, or guardian or sinking fund of a
27 municipality, county, school district, or political subdivision of

1 the state. The bonds may secure deposits of public funds of the
2 state, a municipality, a county, a school district, or another
3 political corporation or subdivision of the state. The board may
4 issue bonds to refund all or part of its outstanding bonds,
5 including accrued but unpaid interest. The bonds, a transaction
6 relating to the bonds, or a profit made in the sale of the bonds is
7 exempt from taxation by the state, an agency or subdivision of the
8 state, a municipality, or a special district.

9 (e) This section is contingent on the adoption of the
10 constitutional amendment proposed by H.J.R. 70, Acts of the 71st
11 Legislature, Regular Session, 1989. If that proposed
12 constitutional amendment is not approved by the voters, this
13 section has no effect.

14 SECTION 6. Section 481.242, Government Code, as added by
15 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
16 amended to read as follows:

17 Sec. 481.242. SMALL BUSINESS INCUBATOR FUND. (a) The small
18 business incubator fund is a revolving fund in the state treasury.

19 (b) Money appropriated to the department, proceeds of bonds
20 issued under this subchapter, application fees, guarantee fees,
21 royalty receipts, dividend income, loan repayments, and other
22 amounts received by the state for loans, loan guarantees, equity in
23 investments, or grants made under this subchapter, and any other
24 money received by the department under this subchapter and required
25 by resolution of the board to be deposited in the fund, including
26 federal funds and the proceeds of any investment pools operated by
27 the treasurer shall be deposited to the credit of the fund.

1 Appropriated money in the fund may be applied and reapplied to the
2 purposes of this subchapter.

3 SECTION 7. Subchapter R, Chapter 481, Government Code, as
4 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
5 1989, is amended by adding Sections 481.244, 481.245, and 481.246
6 to read as follows:

7 Sec. 481.244. INVESTMENT POOLS. The department shall
8 develop programs encouraging the creation of local investment pools
9 to assist with the financing of businesses emerging from the
10 incubator.

11 Sec. 481.245. BONDS. (a) The board may issue up to \$20
12 million of general obligation bonds and may use the proceeds, less
13 the costs of issuance of the bonds, to carry out the small business
14 incubator program in accordance with the resolution authorizing the
15 bonds. The board shall deposit the proceeds of the bonds in the
16 small business incubator fund and apply them in accordance with the
17 resolution authorizing the bonds. The small business incubator
18 fund and any accounts established in the fund shall be held in
19 trust by the state treasurer for and on behalf of the department
20 and the owners of the general obligation bonds issued in accordance
21 with this section, and may be used only as provided by this
22 subchapter. Pending use, the treasurer may invest and reinvest
23 money in the small business incubator fund in investments
24 authorized by law for state funds that the treasurer, consistent
25 with the board's resolutions authorizing the bonds, considers
26 appropriate. Repayments of financial assistance provided under
27 this subchapter, together with earnings received on investments of

1 the small business incubator fund, shall be deposited, first, in
2 the interest and sinking account as prescribed by the board's
3 resolutions authorizing bonds under this section, and, second, in
4 any reserve account established by the board until that account is
5 fully funded as prescribed by the board's resolutions. If, during
6 the time any general obligation bonds are payable from the interest
7 and sinking account, the board determines that there will not be
8 sufficient money in the interest and sinking account during the
9 following fiscal year to pay the principal of or interest on the
10 general obligation bonds or both the principal and interest that
11 are to come due during the following fiscal year, the comptroller
12 of public accounts shall transfer to the fund the first money
13 coming into the state treasury not otherwise appropriated by the
14 constitution in an amount sufficient to pay the obligations.

15 (b) The bonds may be issued from time to time in one or more
16 series or issues, in bearer, registered, or any other form, which
17 may include registered uncertificated obligations not represented
18 by written instruments and commonly known as book-entry
19 obligations, the registration of ownership and transfer of which
20 shall be provided for by the board under a system of books and
21 records maintained by the department or by an agent appointed by
22 the board in a resolution providing for issuance of its bonds.
23 Bonds may mature serially or otherwise not more than 40 years from
24 their date. Bonds may bear no interest or may bear interest at any
25 rate or rates, fixed, variable, floating, or otherwise, determined
26 by the board or determined pursuant to any contractual arrangements
27 approved by the board, not to exceed the maximum net effective

1 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
2 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
3 Statutes). Interest on the bonds may be payable at any time and
4 the rate of interest on the bonds may be adjusted at any time
5 determined by the board pursuant to the resolutions authorizing the
6 bonds or determined pursuant to any contractual arrangement
7 approved by the board. In connection with the issuance of its
8 bonds, the board may exercise the powers granted to the governing
9 body of an issuer in connection with the issuance of obligations
10 under Chapter 656, Acts of the 68th Legislature, Regular Session,
11 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent
12 not inconsistent with this section. The bonds may be issued in the
13 form and denominations and executed in the manner and under the
14 terms, conditions, and details determined by the board in the
15 resolution authorizing their issuance. If any officer whose manual
16 or facsimile signature appears on the bonds ceases to be an
17 officer, the signature remains valid and sufficient for all
18 purposes as if the officer had remained in office.

19 (c) All bonds issued by the board under this section are
20 subject to review and approval by the attorney general in the same
21 manner and with the same effect as is provided by Chapter 656, Acts
22 of the 68th Legislature, Regular Session, 1983 (Article 717q,
23 Vernon's Texas Civil Statutes).

24 (d) The bonds are a legal and authorized investment for a
25 bank, trust company, savings and loan association, insurance
26 company, fiduciary, trustee, or guardian or a sinking fund of a
27 municipality, county, school district, or political subdivision of

1 the state. The bonds may secure deposits of public funds of the
 2 state, a municipality, a county, a school district, or another
 3 political corporation or subdivision of the state. The department
 4 may issue bonds to refund all or part of its outstanding bonds,
 5 including accrued but unpaid interest. The bonds, a transaction
 6 relating to the bonds, or a profit made in the sale of the bonds is
 7 exempt from taxation by the state, an agency or subdivision of the
 8 state, a municipality, or a special district.

9 (e) This section is contingent on the adoption of the
 10 constitutional amendment proposed by H.J.R. 70, Acts of the 71st
 11 Legislature, Regular Session, 1989. If that proposed
 12 constitutional amendment is not approved by the voters, this
 13 section has no effect.

14 Sec. 481.246. CONSIDERATIONS IN FINANCING. In determining
 15 whether to provide financing under this subchapter, the board shall
 16 consider the likelihood of success of the applicant and the effect
 17 of the financing on job creation and retention in the state. The
 18 board shall give preference to applicants who are Texas residents
 19 doing business in the state, and then to applicants who can
 20 demonstrate that the financed activities will take place
 21 predominantly in this state.

22 SECTION 8. Chapter 58, Agriculture Code, is amended by
 23 adding Subchapter D to read as follows:

24 SUBCHAPTER D. BONDS

25 Sec. 58.031. ISSUANCE OF GENERAL OBLIGATION BONDS. (a) The
 26 board by resolution may provide for the issuance of up to \$25
 27 million of general obligation bonds as authorized by the Texas

1 Constitution. The bonds shall be on a parity. The authority may
2 issue bonds in one or several installments. Before authorizing the
3 issuance of any general obligation bonds, the board must find that
4 the issuance of revenue bonds was not an economically advisable
5 alternative for carrying out this chapter.

6 (b) Proceeds of the bonds shall be deposited in the Texas
7 agricultural fund and applied in accordance with the resolution
8 authorizing the bonds:

9 (1) to provide financial assistance to eligible
10 agricultural businesses;

11 (2) to pay costs of issuance of those bonds and the
12 administration of any financial assistance program established with
13 money in the Texas agricultural fund; and

14 (3) together with any other available funds, to pay
15 the principal of or interest on or to discharge or redeem, in whole
16 or in part, any outstanding bonds issued by the authority.

17 Sec. 58.032. TEXAS AGRICULTURAL FUND. (a) The Texas
18 agricultural fund is a fund in the state treasury.

19 (b) The Texas agricultural fund may, at the direction of the
20 board, receive from the state or federal government or from any
21 other person, money that is to be administered by the authority in
22 connection with the provision of financial assistance to eligible
23 agricultural businesses, including those businesses engaged in the
24 application of biotechnology to agriculture, under any program
25 funded in whole or in part with the proceeds of general obligation
26 bonds issued to carry out the purpose of this chapter.

27 (c) The board may provide for the establishment and

1 maintenance of separate accounts within the Texas agricultural
2 fund, including program accounts as prescribed by the board, an
3 interest and sinking account, a reserve account, and other accounts
4 provided for by the board in its resolutions. Repayments of
5 financial assistance under any program funded in whole or in part
6 with the proceeds of any series of general obligation bonds shall
7 be deposited first in the interest and sinking account as
8 prescribed by the board's resolutions authorizing such series of
9 general obligation bonds, and second in the reserve account in
10 respect of such series of general obligation bonds until that
11 account is fully funded as prescribed by the board's resolutions.
12 The fund and all accounts within it shall be kept and maintained at
13 the direction of the board and held in trust by the state treasurer
14 for and on behalf of the authority and the owners of the general
15 obligation bonds issued in accordance with this chapter, and may be
16 used only as provided by this chapter. Pending its use, money in
17 the fund shall be invested as prescribed by the resolution by which
18 the bonds were issued.

19 (d) To the extent the board determines that any money
20 credited to the Texas agricultural fund from repayments of
21 financial assistance is not required by Subsection (c) of this
22 section and the resolutions of the board to be held in the interest
23 and sinking account or reserve account to provide for the payment
24 of the principal of and interest on the outstanding general
25 obligation bonds issued by the authority, that money may be used by
26 the authority to pay the principal of and interest on revenue bonds
27 issued by the authority or for any other authorized purpose of the

1 authority, in accordance with this chapter and the authority's
2 resolutions authorizing general obligation bonds.

3 (e) If during the existence of the Texas agricultural fund
4 or during the time any general obligation bonds are payable from
5 the fund the board determines that there will not be sufficient
6 money in the interest and sinking account during the following
7 fiscal year to pay the principal of or interest on the general
8 obligation bonds or both the principal and interest that are to
9 come due during the following fiscal year, the comptroller of
10 public accounts shall transfer to the fund the first money coming
11 into the state treasury not otherwise appropriated by the
12 constitution in an amount sufficient to pay the obligations.

13 (f) The department may receive, and shall deposit in the
14 Texas agricultural fund, appropriations, grants, donations, earned
15 federal funds, and the proceeds of any investment pools operated by
16 the treasurer. The Texas product development fund shall operate as
17 a revolving fund the contents of which may be applied and reapplied
18 to the purposes of this chapter.

19 Sec. 58.033. ISSUANCE OF REVENUE BONDS. (a) In addition to
20 the authority to issue general obligation bonds, the authority may
21 issue not more than \$500 million of revenue bonds for the purpose
22 of the authority under this chapter. The authority shall establish
23 and maintain funds and accounts, in accordance with Subsection (d)
24 of this section, that the board considers necessary to ensure
25 payment of the bonds and to provide for the use of the bond
26 proceeds and the implementation of the program financed. Proceeds
27 of revenue bonds shall be applied in accordance with the resolution

1 authorizing those bonds:

2 (1) to provide financial assistance to eligible
3 agricultural businesses;

4 (2) to pay costs of issuance of those bonds and the
5 administration of any financial assistance program established by
6 the authority; and

7 (3) together with any other available funds, to pay
8 the principal of or interest on or to discharge or redeem, in whole
9 or in part, any outstanding bonds issued by the authority.

10 (b) The authority's revenue bonds are obligations solely of
11 the authority and are payable solely from funds of the authority
12 that are pledged to the repayment of the revenue bonds. The
13 authority may not use, except as provided in Section 58.032, or
14 pledge money in the Texas agricultural fund to repayment of its
15 revenue bonds. The authority's bonds are not and do not create or
16 constitute a pledge, giving, or lending of the faith or credit or
17 taxing power of the state. Each bond of the authority issued under
18 this section must contain a statement to the effect that the state
19 is not obligated to pay the principal of or any premium or interest
20 on the bond, and that neither the faith or credit nor the taxing
21 power of the state is pledged, given, or loaned to such a payment.

22 (c) Revenue bonds of the authority shall be payable as to
23 principal, interest, and redemption premium, if any, from and
24 secured by a first lien or a subordinate lien on and pledge of all
25 or any part of the property, revenues, income, or other resources
26 of the authority, as specified in the board's resolution
27 authorizing issuance of those bonds, including mortgages or other

1 interests in property financed, with the proceeds of such bonds,
2 repayments of financial assistance, earnings from investments or
3 deposits of the bonds of the authority, fees, charges, and any
4 other amounts or payments received pursuant to this chapter, and
5 any appropriations, grants, allocations, subsidies, supplements,
6 guaranties, aid, contribution, or donations from the state or
7 federal government or any other person.

8 (d) The board may make additional covenants with respect to
9 the bonds and the pledged revenues and may provide for the flow of
10 funds, the establishment and maintenance and investment of funds,
11 which may include interest and sinking funds, reserve funds,
12 program funds, and other funds. Those funds shall be kept and
13 maintained in escrow and in trust by the state treasurer for and on
14 behalf of the authority and the owners of its revenue bonds, in
15 funds held outside the treasury pursuant to Section 404.073,
16 Government Code. Those funds shall be used only as provided by
17 this chapter, and pending their use shall be invested as provided
18 by any resolution of the authority. Legal title to those funds
19 shall be in the authority unless or until paid out as provided by
20 this chapter or by the resolutions authorizing the authority's
21 bonds. The state treasurer, as custodian, shall administer those
22 funds strictly and only as provided by this chapter and in those
23 resolutions. The treasurer shall invest the funds in investments
24 authorized by law for state funds. The state shall take no action
25 with respect to those funds other than that specified in this
26 chapter and in those resolutions.

27 (e) The board may provide in the resolution authorizing any

1 revenue bonds for the issuance of additional bonds to be equally
2 and ratably secured by lien on the revenues and receipts, or for
3 the issuance of subordinate lien bonds.

4 Sec. 58.034. GENERAL PROVISIONS RELATING TO BONDS. (a) The
5 authority's bonds may be issued from time to time in one or more
6 series or issues, in bearer, registered, or any other form, which
7 may include registered uncertified obligations not represented by
8 written instruments and commonly known as book-entry obligations,
9 the registration of ownership and transfer of which shall be
10 provided for by the authority under a system of books and records
11 maintained by the authority or by an agent appointed by the
12 authority in resolution providing for issuance of its bonds. Bonds
13 may mature serially or otherwise not more than 40 years from their
14 date. Bonds may bear no interest or may bear interest at any rate
15 or rates, fixed, variable, floating, or otherwise, determined by
16 the board or determined pursuant to any contractual arrangements
17 approved by the board, not to exceed the maximum net effective
18 interest rate allowed by Chapter 3, Acts of the 61st Legislature,
19 Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil
20 Statutes). Interest on the bonds may be payable at any time, and
21 the rate of interest on the bonds may be adjusted at such time as
22 may be determined by the board or as may be determined pursuant to
23 any contractual arrangement approved by the board. In connection
24 with the issuance of its bonds, the board may exercise the powers
25 granted to the governing body of an issuer in connection with the
26 issuance of obligations under Chapter 656, Acts of the 68th
27 Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas

1 Civil Statutes), to the extent not inconsistent with this chapter.

2 (b) The bonds issued under this chapter and interest
3 coupons, if any, are investment securities under the terms of
4 Chapter 8, Business & Commerce Code. The bonds are exempt
5 securities under The Securities Act (Article 581-1 et seq.,
6 Vernon's Texas Civil Statutes), and unless specifically provided
7 otherwise, under any subsequently enacted securities act. Any
8 contract, guaranty, or any other document executed in connection
9 with the issuance of bonds pursuant to this chapter is not a
10 security under The Securities Act (Article 581-1 et seq., Vernon's
11 Texas Civil Statutes), and, unless specifically provided otherwise,
12 any subsequently enacted securities act. The board is authorized
13 to do all things necessary to qualify the bonds for offer and sale
14 under the securities laws and regulations of the United States and
15 of the states and other jurisdictions in the United States as the
16 board shall determine.

17 (c) The bonds may be issued in the form and denominations
18 and executed in the manner and under the terms, conditions, and
19 details determined as provided by the board in the resolution
20 authorizing their issuance. If any officer whose manual or
21 facsimile signature appears on the bonds ceases to be an officer,
22 the signature is still valid and sufficient for all purposes as if
23 the officer had remained in office.

24 (d) All bonds issued by the authority are subject to review
25 and approval by the attorney general in the same manner and with
26 the same effect as is provided by Chapter 656, Acts of the 68th
27 Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas

1 Civil Statutes).

2 (e) No fee may be charged by any other agency of this state
3 in connection with the issuance of the bonds or the allocation of a
4 portion of the state volume limitation on private activity bonds
5 either under executive order or legislative enactment. No
6 proceeding, notice, or approval is required for the issuance of any
7 bonds or any instrument as security except as provided by this Act.
8 Nothing in this subsection may be constituted to deprive the state
9 and its governmental subdivisions of their respective police powers
10 or to impair any police power of any official or agency of the
11 state or its subdivisions as may be provided by law.

12 (f) The state pledges to and agrees with the owners of any
13 bonds issued in accordance with this chapter that the state will
14 not limit or alter the rights vested in the authority to fulfill
15 the terms of any agreements made with the owners of the bonds or in
16 any way impair the rights and remedies of those owners until those
17 bonds, together with any premium and the interest on the bonds and
18 all costs and expenses in connection with any action or proceeding
19 by or on behalf of those owners, are fully met and discharged. The
20 authority is authorized to include this pledge and agreement of the
21 state in any agreement with the owners of those bonds.

22 (g) The bonds may be sold at public or private sale with or
23 without public bidding in the manner, at such rate or rates, price
24 or prices, and on such terms as may be determined by the board or
25 determined as provided in any contractual arrangement approved by
26 the board. The board also may enter into any contractual
27 arrangement under which the bonds are to be sold from time to time,

1 or subject to purchase, at such prices and rates, interest rate or
2 payment periods, and terms as determined pursuant to that
3 contractual arrangement approved by the board.

4 (h) Pending the preparation of definitive bonds, interim
5 receipts or certificates in the form and with the provisions that
6 are provided in the resolution may be issued to the purchaser or
7 purchasers of bonds sold under this chapter.

8 (i) The board may provide procedures for the replacement of
9 a mutilated, lost, stolen, or destroyed bond or interest coupon.

10 (j) The resolutions of the board issuing bonds may contain
11 other provisions and covenants as the board may determine.

12 (k) The board may adopt and have executed any other
13 proceedings or instruments necessary and convenient in the issuance
14 of bonds.

15 (l) The authority may not issue bonds after August 31, 1993.

16 Sec. 58.035. REFUNDING BONDS. The authority may issue,
17 sell, and deliver bonds to refund all or any part of its
18 outstanding bonds, including the payment of any redemption premium
19 and interest accrued, under such terms, conditions, and details as
20 determined by the board. Bonds issued by the authority may be
21 refunded in the manner provided by any other applicable statute,
22 including Chapter 503, Acts of the 54th Legislature, Regular
23 Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), and
24 Chapter 784, Acts of the 61st Legislature, Regular Session, 1969
25 (Article 717k-3, Vernon's Texas Civil Statutes). Bonds, the
26 provision for the payment of all interest and applicable premiums
27 on which and the principal of which has been made through the

1 irrevocable deposit of money with the treasurer in accordance with
2 the provisions of such an applicable statute, shall no longer be
3 charged against the issuing authority of the authority, and on the
4 making of such provision such issuing authority shall, to the
5 extent of the principal amount of such bonds, be restored.

6 Sec. 58.036. PAYMENT ENFORCEABLE BY MANDAMUS. Payment of
7 the bonds and performance by the authority or the commissioner of
8 its or his functions and duties under this chapter and the Texas
9 Constitution may be enforced in the state supreme court by mandamus
10 or other appropriate proceeding.

11 Sec. 58.037. BONDS AS INVESTMENTS. (a) The bonds are legal
12 and authorized investments for:

- 13 (1) banks;
14 (2) trust companies;
15 (3) savings and loan associations;
16 (4) insurance companies of all kinds and types;
17 (5) fiduciaries;
18 (6) trustees;
19 (7) guardians; and
20 (8) sinking and other public funds of the state,
21 municipalities, counties, school districts, and other political
22 subdivisions of the state.

23 (b) The bonds are eligible to secure the deposit of any
24 public funds of the state, municipalities, counties, school
25 districts, or other political subdivisions of the state, and the
26 bonds shall be lawful and sufficient security for the deposits to
27 the extent of their face value when accompanied by all unmatured

1 coupons attached to the bonds.

2 Sec. 58.038. TAX STATUS OF BONDS. The bonds issued by the
3 authority, any transaction relating to the bonds, and any profits
4 made in the sale of the bonds are free from taxation by the state
5 or by any city, county, special district, or other political
6 subdivision of the state; provided that this section does not
7 exempt the owner of any property financed under this chapter from
8 any ad valorem, sales, use, excise, or other tax levied by the
9 state or any political corporation of this state.

10 Sec. 58.039. REVIEW. Bonds may not be issued under this
11 chapter, and proceeds of bonds under this chapter may not be used
12 to finance a program unless the issuance or program, as applicable,
13 has been reviewed and approved by the review board.

14 Sec. 58.040. CONSIDERATIONS IN FINANCING. In determining
15 whether to provide financing under this chapter, the board shall
16 consider the likelihood of success of the applicant and the effect
17 of the financing on job creation and retention in the state. The
18 board shall give preference to applicants who are Texas residents
19 doing business in the state, and then to applicants who can
20 demonstrate that the financed activities will take place
21 predominantly in this state.

22 Sec. 58.041. GENERAL BONDS CONTINGENT. The provisions of
23 this section authorizing the issuance of general obligation bonds
24 are contingent on adoption of the constitutional amendment proposed
25 by H.J.R. No. 70, 71st Legislature, Regular Session, 1989. If that
26 amendment is not approved by the voters, those provisions have no
27 effect.

1 SECTION 9. The importance of this legislation and the
2 crowded condition of the calendars in both houses create an
3 emergency and an imperative public necessity that the
4 constitutional rule requiring bills to be read on three several
5 days in each house be suspended, and this rule is hereby suspended.

ADOPTED

MAY 27 1969

Long

Floor

AMENDMENT NO. 1

BY

Man

1 Amend HB 1860 As follows:

2

3 Amend HB 1860 on page 3, line 47 by deleting the words 'The
4 advisory board' and substituting in lieu thereof the words 'On
5 recommendation of the advisory board, the department'; and

6

7 on page 3, line 56 by deleting the words 'governing board of
8 the Texas Department of Commerce' and inserting in lieu thereof
9 the word 'department'; and

10

11 on page 3, line 59 by deleting the words 'the board' and
12 inserting in lieu thereof the words 'department'; and

13

14 on page 4, line 5 by deleting the word 'board' and inserting
15 in lieu thereof the word 'department'; and

16

17 on page 4, line 13 by deleting the number '\$45' and inserting
18 in lieu thereof the number '\$25'; and

19 ON PAGE 6, LINE 60, AND

20 on page 11, line 22, and on page 5, line 22 delete the words
21 'HJR 70' and inserting in lieu thereof the words 'HJR 51'.

22

23

24

28
+

AMEND THE CAPTION TO CONFORM
TO THE BODY OF THE BILL

ADOPTED

MAY 27 1968

Anthony J. ...
Secretary of the Senate

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 22, 1989

TO: Honorable John T. Montford, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

In Re: House Bill No. 1860,
as engrossed
By: Colbert

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1860, as engrossed (relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would authorize the issuance of \$90 million in general obligation bonds and \$500 million in revenue bonds for the following purposes: \$45 million in general obligation bonds for the development of new or improved products in the state; \$20 million in general obligation bonds to stimulate the development of small business in the state; \$25 million in general obligation bonds to assist agricultural business in the state; and \$500 million in revenue bonds also to assist agricultural business in the state.

The bill would create the Texas Product Development Fund, the Small Business Incubator Fund, and the Texas Agricultural Fund to receive revenue from loan repayments and make debt service payments on general obligation bonds.

It is assumed that the revenue generated from loan repayments would be sufficient to pay the debt service on the general obligation bonds; however, if the revenue is insufficient to pay the debt service, a draw would be made on the General Revenue Fund to fund the difference. It is also assumed that the loan and grant programs created will be self-supporting from loan rates being higher than bond costs, loan origination fees, and investment earnings.

The bill also would allow the Texas Agricultural Finance Authority to establish funds to receive revenue from loan repayments and make debt service payments on revenue bonds. The revenue bonds would be repaid solely from the revenues generated from loans and would not constitute a pledge of the full faith and credit of the State.

Assuming a 20-year payout on the bonds at a 7.5 percent interest rate for general obligation bonds and a 7.75 percent interest rate for revenue bonds, the probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from General Obligation Bonds</u> | <u>Probable Debt Service Payments on General Obligation Bonds</u> |
|------------------------|--|---|
| 1990 | \$3,375,000 | \$3,375,000 |
| 1991 | 8,690,000 | 8,690,000 |
| 1992 | 8,690,000 | 8,690,000 |
| 1993 | 8,690,000 | 8,690,000 |
| 1994 | 8,690,000 | 8,690,000 |

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from Revenue Bonds</u> | <u>Probable Debt Service Payment on Revenue Bonds</u> |
|--------------------|---|---|
| 1990 | \$19,375,000 | \$19,375,000 |
| 1991 | 49,180,000 | 49,180,000 |
| 1992 | 49,180,000 | 49,180,000 |
| 1993 | 49,180,000 | 49,180,000 |
| 1994 | 49,180,000 | 49,180,000 |

| <u>Fiscal Year</u> | <u>Probable Revenue Gain to the Texas Department of Agriculture from Administrative Funds</u> | <u>Probable Operating Cost to the Texas Department of Agriculture</u> | <u>Probable Revenue Gain to the Texas Department of Commerce from Administrative Fees</u> |
|--------------------|---|---|---|
| 1990 | \$89,900 | \$89,900 | \$227,296 |
| 1991 | 83,900 | 83,900 | 222,295 |
| 1992 | 83,900 | 83,900 | 215,295 |
| 1993 | 83,900 | 83,900 | 215,295 |
| 1994 | 83,900 | 83,900 | 215,295 |

| <u>Fiscal Year</u> | <u>Probable Operating Cost to the Texas Department of Commerce</u> | <u>Change in Number of State Employees from FY 1989</u> |
|--------------------|--|---|
| 1990 | \$227,296 | + 6 |
| 1991 | 222,295 | + 6 |
| 1992 | 215,295 | + 6 |
| 1993 | 215,295 | + 6 |
| 1994 | 215,295 | + 6 |

Similar annual fiscal implications would continue through the year 2009. Total payout on the general obligation bonds is estimated to be \$177,108,750 and total payout on the revenue bonds is estimated to be \$1,002,982,752.

No fiscal implication to units of local government is anticipated.

Source: Comptroller of Public Accounts; Bond Review Board;
 Public Finance Authority; Department of Agriculture;
 Department of Commerce;
 LBB Staff: JO, JWH, AL, TB, CKM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 4, 1989

TO: Honorable Al Luna, Chair
Committee on Science and Technology
House of Representatives
Austin, Texas

In Re: Committee Substitute for
House Bill No. 1860

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 1860 (relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would authorize the issuance of \$90 million in general obligation bonds and \$500 million in revenue bonds for the following purposes: \$45 million in general obligation bonds for the development of new or improved products in the state; \$20 million in general obligation bonds to stimulate the development of small business in the state; \$25 million in general obligation bonds to assist agricultural business in the state; and \$500 million in revenue bonds also to assist agricultural business in the state.

The bill would create the Texas Product Development Fund, the Small Business Incubator Fund, and the Texas Agricultural Fund to receive revenue from loan repayments and make debt service payments on general obligation bonds.

It is assumed that the revenue generated from loan repayments would be sufficient to pay the debt service on the general obligation bonds; however, if the revenue is insufficient to pay the debt service, a draw would be made on the General Revenue Fund to fund the difference. It is also assumed that the loan and grant programs created will be self-supporting from loan rates being higher than bond costs, loan origination fees, and investment earnings.

The bill also would allow the Texas Agricultural Finance Authority to establish funds to receive revenue from loan repayments and make debt service payments on revenue bonds. The revenue bonds would be repaid solely from the revenues generated from loans and would not constitute a pledge of the full faith and credit of the State.

Assuming a 20-year payout on the bonds at a 7.5 percent interest rate for general obligation bonds and a 7.75 percent interest rate for revenue bonds, the probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from General Obligation Bonds</u> | <u>Probable Debt Service Payments on General Obligation Bonds</u> |
|------------------------|--|---|
| 1990 | \$3,375,000 | \$3,375,000 |
| 1991 | 8,690,000 | 8,690,000 |
| 1992 | 8,690,000 | 8,690,000 |
| 1993 | 8,690,000 | 8,690,000 |
| 1994 | 8,690,000 | 8,690,000 |

Fiscal Note on Committee Substitute for House Bill No. 1860
May 4, 1989
Page Two

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from Revenue Bonds</u> | <u>Probable Debt Service Payment on Revenue Bonds</u> |
|--------------------|---|---|
| 1990 | \$19,375,000 | \$19,375,000 |
| 1991 | 49,180,000 | 49,180,000 |
| 1992 | 49,180,000 | 49,180,000 |
| 1993 | 49,180,000 | 49,180,000 |
| 1994 | 49,180,000 | 49,180,000 |

| <u>Fiscal Year</u> | <u>Probable Revenue Gain to the Texas Department of Agriculture from Administrative Funds</u> | <u>Probable Operating Cost to the Texas Department of Agriculture</u> | <u>Probable Revenue Gain to the Texas Department of Commerce from Administrative Fees</u> |
|--------------------|---|---|---|
| 1990 | \$89,900 | \$89,900 | \$227,296 |
| 1991 | 83,900 | 83,900 | 222,295 |
| 1992 | 83,900 | 83,900 | 215,295 |
| 1993 | 83,900 | 83,900 | 215,295 |
| 1994 | 83,900 | 83,900 | 215,295 |

| <u>Fiscal Year</u> | <u>Probable Operating Cost to the Texas Department of Commerce</u> | <u>Change in Number of State Employees from FY 1989</u> |
|--------------------|--|---|
| 1990 | \$227,296 | + 6 |
| 1991 | 222,295 | + 6 |
| 1992 | 215,295 | + 6 |
| 1993 | 215,295 | + 6 |
| 1994 | 215,295 | + 6 |

Similar annual fiscal implications would continue through the year 2009. Total payout on the general obligation bonds is estimated to be \$177,108,750 and total payout on the revenue bonds is estimated to be \$1,002,982,752.

No fiscal implication to units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Comptroller of Public Accounts; Bond Review Board;
Public Finance Authority; Department of Agriculture;
Department of Commerce;
LBB Staff: JO, JWH, AL, TB, LV

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 11, 1989

TO: Honorable Al Luna, Chair
Committee on Science and Technology
House of Representatives
Austin, Texas

In Re: House Bill No. 1860
By: Colbert

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1860 (relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would authorize the issuance of \$70 million in general obligation bonds and \$500 million in revenue bonds for the following purposes: \$25 million in general obligation bonds for the development of new or improved products in the state; \$20 million in general obligation bonds to stimulate the development of small business in the state; \$25 million in general obligation bonds to assist agricultural business in the state; and \$500 million in revenue bonds also to assist agricultural business in the state.

The bill would authorize the Department of Commerce to use \$10 million of the general obligation bonds for challenge grants, which would be paid for out of the General Revenue Fund.

The bill would create the Texas Product Development Fund, the Small Business Incubator Fund, and the Texas Agricultural Fund to receive revenue from loan repayments and make debt service payments on general obligation bonds.

It is assumed that the revenue generated from loan repayments would be sufficient to pay the debt service on the general obligation bonds; however, if the revenue is insufficient to pay the debt service, a draw would be made on the General Revenue Fund to fund the difference. It is also assumed that the loan and grant programs created will be self-supporting from loan rates being higher than bond costs, loan origination fees, and investment earnings.

The bill also would allow the Texas Agricultural Finance Authority to establish funds to receive revenue from loan repayments and make debt service payments on revenue bonds. The revenue bonds would be repaid solely from the revenues generated from loans and would not constitute a pledge of the full faith and credit of the State.

Assuming a 20-year payout on the bonds at a 7.5 percent interest rate for general obligation bonds and a 7.75 percent interest rate for revenue bonds, the probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

| <u>Fiscal Year</u> | <u>Probable Revenue Gain from General Obligation Bonds</u> | <u>Probable Debt Service Payments on General Obligation Bonds</u> |
|------------------------|--|---|
| 1990 | \$2,250,000 | \$2,250,000 |
| 1991 | 5,790,000 | 5,790,000 |
| 1992 | 5,790,000 | 5,790,000 |
| 1993 | 5,790,000 | 5,790,000 |
| 1994 | 5,790,000 | 5,790,000 |

| <u>Fiscal Year</u> | <u>Probable Debt Service Payments Out of the General Revenue Fund</u> | <u>Probable Revenue Gain from Revenue Bonds</u> | <u>Probable Debt Service Payment on Revenue Bonds</u> |
|--------------------|---|---|---|
| 1990 | \$375,000 | \$19,375,000 | \$19,375,000 |
| 1991 | 970,000 | 49,180,000 | 49,180,000 |
| 1992 | 970,000 | 49,180,000 | 49,180,000 |
| 1993 | 970,000 | 49,180,000 | 49,180,000 |
| 1994 | 970,000 | 49,180,000 | 49,180,000 |

Similar annual fiscal implications would continue through the year 2009. Total payout on the general obligation bonds is estimated to be \$137,750,000 and total payout on the revenue bonds is estimated to be \$1,002,982,752.

| <u>Fiscal Year</u> | <u>Probable Revenue Gain to the Texas Department of Agriculture from Administrative Funds</u> | <u>Probable Operating Cost to the Texas Department of Agriculture</u> | <u>Probable Revenue Gain to the Texas Department of Commerce from Administrative Fees</u> |
|--------------------|---|---|---|
| 1990 | \$89,900 | \$89,900 | \$227,296 |
| 1991 | 83,900 | 83,900 | 222,295 |
| 1992 | 83,900 | 83,900 | 215,295 |
| 1993 | 83,900 | 83,900 | 215,295 |
| 1994 | 83,900 | 83,900 | 215,295 |

| <u>Fiscal Year</u> | <u>Probable Operating Cost to the Texas Department of Commerce</u> | <u>Change in Number of State Employees from FY 1989</u> |
|--------------------|--|---|
| 1990 | \$227,296 | + 6 |
| 1991 | 222,295 | + 6 |
| 1992 | 215,295 | + 6 |
| 1993 | 215,295 | + 6 |
| 1994 | 215,295 | + 6 |

No fiscal implication to units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Comptroller of Public Accounts; Bond Review Board;
Public Finance Authority; Department of Agriculture;
Department of Commerce;
LBB Staff: JO, JWH, AL, TB, CKM

CONFERENCE COMMITTEE REPORT FORM

5/24/89 Austin, Texas
Date

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H. B. 1860 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Gene Green

Ambridge

W. H. H. H.

John Whitman

Wike

On the part of the Senate

Bill Calkins

Al Luna

Dudley Harrison

Orley Smith

Frank Calkins

On the part of the House

Paper clip one of these forms to each of the following:
the original and two copies to the house of origin
three copies to the other house

ADOPTED

MAY 29 1989

Betty Murray
Chief Clerk
House of Representatives

*now
record*

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.221, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.221. DEFINITIONS. In this subchapter:

(1) "Advisory board" means the Product Development Advisory Board.

(2) [{"1}]"Executive director" means the executive director of the department or the executive director's designee.

(3) "Fund" means the product development fund.

(4) "Office" means the Office of Advanced Technology within the Texas Department of Commerce.

(5) [{"2}]"Product" means an invention, product, device, technique, or process, without regard to whether a patent has or could be granted, that is or may be exploitable commercially. The term does not refer to pure research but includes products, devices, techniques, or processes that have advanced beyond the theoretical stage and have or are readily capable of having a ^{practical} commercial application.

(6) [{"3}]"Venture financing" means a revolving loan, loan guarantee, or equity investment from the Texas product

development fund to a person for use in the development of new or improved products.

SECTION 2. Section 481.222, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.222. TEXAS PRODUCT DEVELOPMENT FUND; VENTURE FINANCING. (a) The Texas product development fund is a revolving fund in the state treasury. The fund consists of money appropriated to the department, proceeds of bonds issued under this subchapter, application fees, loan repayments, guarantee fees, royalty receipts, dividend income, and other amounts received by the state from loans, loan guarantees, and equity investments made under this subchapter, other amounts received by the state for loans or grants made under this subchapter, and money acquired from federal grants or other sources and required by resolution of the board to be deposited in the fund. The fund contains a program account, an interest and sinking account, and other accounts that the board authorizes to be created and maintained. Money in the fund is available for use by the department under this subchapter.

(b) Money in the program account, minus the costs of issuance of bonds under this subchapter and necessary costs of administering the fund, may be used only to provide venture financing to aid in the development and for the commercialization of new or improved products. The department may provide venture financing from the fund for the purposes of designing and constructing new facilities, rehabilitating existing facilities, acquiring any interest in real or personal property, and providing

1 initial working capital to pay the cost of salaries, rents,
2 supplies, inventories, mortgage payments, legal services, and
3 utilities and telephone, travel, and other incidental costs
4 normally classified as working capital according to standard
5 accounting principles. The department shall provide venture
6 financing from the fund on the terms and conditions that the
7 department determines to be reasonable, appropriate, and consistent
8 with the purposes and objectives of the fund and this subchapter
9 for the purpose of financing a new or improved product that is or
10 may be exploitable commercially. The department may provide
11 venture financing only if financing for the product being developed
12 is not otherwise available on reasonable terms.

13 (c) Before approving the provision of venture financing to a
14 person, the department shall enter into an agreement with the
15 person under which the department will obtain an appropriate
16 portion of royalties, patent rights, equitable interests, or a
17 combination of those royalties, rights, and interests from or in
18 the product or proceeds of the product for which venture financing
19 is requested. Contracts executed under this subchapter must
20 include agreements to ensure proper use of funds and the receipt of
21 royalties, patent rights, or equity interest, as appropriate.

22 SECTION 3. Section 481.224, Government Code, as added by
23 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
24 amended to read as follows:

25 Sec. 481.224. APPLICATION. (a) An application for venture
26 financing must be delivered, together with a reasonable application
27 fee prescribed by the department, to the executive director. The

1 application shall contain a business plan, containing such
 2 information as required by the department, including at a minimum[7
 3 who--shall-conduct-an-investigation-and-prepare-a-report-concerning
 4 the-advisability-of-approving-the-application-and-concerning--other
 5 factors--considered--relevant--by--the--department, ---The-executive
 6 director's-report-must-include]:

7 (1) information regarding the history and financial
 8 condition of the applicant, including the applicant's income
 9 statement, and information about the applicant's present markets
 10 and market prospects and about the integrity of the applicant's
 11 management; [and]

12 (2) a statement of the feasibility of the product for
 13 which financing is requested, including the state of development of
 14 the product and the likelihood of its commercialization; and[7]

15 (3) a description of attempts to obtain private
 16 financing, including documentation verifying such efforts and a
 17 clear description of the reasons such financing was denied.

18 (b) The [For-each-application,-the] executive director shall
 19 [also] determine the following with respect to each application for
 20 venture financing [whether]:

21 (1) whether the product for which financing is
 22 requested is economically sound, and whether[7--(2)] there is a
 23 reasonable expectation that the product will be successful;

24 (2) whether [(3)] the product will create or preserve
 25 jobs and otherwise benefit the economy of the state;

26 (3) whether [(4)] the applicant lacks the financial
 27 resources to complete the project, and whether[7--(5)] venture

financing is necessary because financing is unavailable in traditional capital markets or credit has been offered on terms that would preclude the success of the project; and

(4) whether [6] there is reasonable assurance that the potential revenues to be derived from the sale of the product will be sufficient to repay any venture financing approved by the department[^{CL},-and-7]-with-respect-to-patents,-copyrights,-and-other ownership--rights--relative--to--the--product,--there-is-reasonable assurance-that-the-product-will--be--used--to--the--maximum--extent possible-in-facilities-located-in-this-state].

(c) The executive director shall submit the report to the department. After considering the report, together with [and] other information that the department considers appropriate, the department shall approve or deny the application for venture financing and promptly notify the applicant of its [the] decision.

SECTION 4. Section 481.225, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.225. INFORMATION CONFIDENTIAL. Information relating to a product, and the application or use of a product, and technological and scientific information, including computer programs, developed in whole or part by an applicant for or a recipient of venture financing, is confidential and is not subject to disclosure under state law or otherwise, regardless of whether the product is patentable or capable of being registered under copyright or trademark laws, or has a potential for being sold, traded, or licensed for a fee; however, nothing in this subchapter

1 shall prevent or restrict the Office of Advanced Technology or the
2 advisory board from obtaining information relating to a product or
3 process from an applicant or recipient of a loan under this
4 subchapter.

5 SECTION 5. Subchapter Q, Chapter 481, Government Code, as
6 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
7 1989, is amended by adding Sections 481.226, 481.227, 481.228, and
8 481.229 to read as follows:

9 Sec. 481.226. ADVISORY BOARD. (a) The Product Development
10 Advisory Board is composed of:

11 (1) one representative of the Texas Higher Education
12 Coordinating Board selected by the Texas Higher Education
13 Coordinating Board;

14 (2) two persons appointed by the governor;

15 (3) two persons appointed by the lieutenant governor;

16 and

17 (4) two persons appointed by the speaker of the house
18 of representatives.

19 (b) In appointing members of the advisory board, the
20 governor, lieutenant governor, and speaker of the house shall
21 appoint persons having significant business leadership experience
22 with emerging technologies, particularly experience with the
23 transfer of research results into commercial application.

24 (c) Members of the advisory board serve two-year staggered
25 terms with the terms of four members expiring February 1 of each
26 odd-numbered year and the terms of three members expiring February
27 1 of each even-numbered year.

1 (d) The governor shall appoint the advisory board's chairman
2 from among its members.

3 (e) On recommendation of the advisory board, the
4 department shall adopt rules establishing limits on the amount of
5 each loan and otherwise governing the terms and conditions of the
6 loans, specifically including requirements for appropriate
7 security or collateral and the rights and remedies of the
8 department in the event of a default on the loan. Such rules
9 shall include a requirement that borrowers shall report to the
10 advisory board on the use of money distributed through this fund.

11 Sec. 481.227. ELIGIBLE PROJECTS AND BORROWERS. (a) A loan
12 may be made under this subchapter only to finance a project
13 approved by the advisory board and the department.

14 (b) In determining eligible projects, the advisory board
15 and the department shall give special preference to projects that
16 have the greatest likelihood of commercial success and have the
17 greatest effect on job creation and retention in the state,
18 specifically including but not limited to projects in the areas
19 of biotechnology, biomedicine, energy, materials science,
20 microelectronics, aerospace, marine science, aquaculture,
21 telecommunications, manufacturing science, and other priority
22 research areas as provided in Section 143.003, of the Education
23 Code. The priority research area of agriculture will be funded
24 according to the provisions of Subchapter D, Chapter 58, of the
25 Agriculture Code. The advisory board and the department further
26 shall give consideration to: ⁶⁴ (1) grantees under the small
27 business innovation research program established under 15 U.S.C.

Section 638; (2) Texas companies formed to commercialize research funded at least in part with state funds; and (3) Texas companies receiving assistance from designated state small business development centers.

Sec. 481.228. CONSIDERATION IN FINANCING. In determining whether to provide financing under this subchapter, the advisory board and the department shall give preference to applicants who are Texas residents doing business in the state and performing financed activities predominantly in the state, and then to applicants who can demonstrate that the financed activities will take place predominantly in this state.

Sec. 481.229. PROGRAM COORDINATION. The department may coordinate the administration and funding of the programs established pursuant to Subchapter U and this subchapter.

SECTION 6. Section 481.242, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.242. SMALL BUSINESS INCUBATOR FUND. (a) The small business incubator fund is a revolving fund in the state treasury.

(b) Money appropriated to the department, proceeds of bonds issued under this subchapter, application fees, guarantee fees, royalty receipts, dividend income, loan repayments, and other amounts received by the state for loans, loan guarantees, equity in investments, or grants made under this subchapter, and any other money received by the department under this subchapter and required by resolution of the board to be deposited in the fund, including federal funds and the proceeds of any investment pools operated by the treasurer shall be deposited to the credit of the fund.

Appropriated money in the fund may be applied and reapplied to the purposes of this subchapter.

1 SECTION 7. Subchapter R, Chapter 481, Government Code, as
2 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
3 1989, is amended by adding Section 481.245;
4 to read as follows:

5 Sec. 481.245. INVESTMENT POOLS. The department shall
6 develop programs encouraging the creation of local investment pools
7 to assist with the financing of businesses emerging from the
8 incubator.

9 SECTION 8. Subchapter R, Chapter 481, Government Code, as
10 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
11 1989, is amended by adding Section 481.246 to read as follows:

12 Sec. 481.246. CONSIDERATIONS IN FINANCING. In determining
13 whether to provide financing under this subchapter, the board shall
14 consider the likelihood of success of the applicant and the effect
15 of the financing on job creation and retention in the state. The
16 board shall give preference to applicants who are Texas residents
17 doing business in the state, and then to applicants who can
18 demonstrate that the financed activities will take place
19 predominantly in this state.

20 SECTION 9. Chapter 58, Agriculture Code, is amended by
21 adding Section 58.032(f) to read as follows:

22 (f) The department may receive, and shall deposit in the
23 Texas agricultural fund, appropriations, grants, donations, earned
24 federal funds, and the proceeds of any investment pools operated by
25 the treasurer.

1 SECTION 10. Chapter 58, Agriculture Code, is amended by
2 adding Section 58.040 to read as follows:

3 Sec. 58.040. CONSIDERATIONS IN FINANCING. In determining
4 whether to provide financing under this chapter, the board shall
5 consider the likelihood of success of the applicant and the effect
6 of the financing on job creation and retention in the state. The
7 board shall give preference to applicants who are Texas residents
8 doing business in the state, and then to applicants who can
9 demonstrate that the financed activities will take place
10 predominantly in this state.

11 SECTION 11. The importance of this legislation and the
12 crowded condition of the calendars in both houses create an
13 emergency and an imperative public necessity that the
14 constitutional rule requiring bills to be read on three several
15 days in each house be suspended, and this rule is hereby suspended.

HOUSE BILL 1860
SIDE BY SIDE COMPARISON

HOUSE VERSION

SENATE VERSION

CONFERENCE VERSION

SECTION 1 : DEFINITIONS

identical in all three versions

identical in all three versions

identical in all three versions

SECTION 2 : Defines Fund contents and structure

identical in all three versions

identical in all three versions

identical in all three versions

SECTION 3: APPLICATION describes

specific requirements for applications
for assistance under the product development
fund.

identical in all three versions

identical in all three versions

SECTION 4: Information Confidential

Identical in all three versions

identical in all three versions

identical in all three versions

SECTION 5: Product Development Fund

Section 481.226 creates a six member
advisory board

identical, except for small wording changes
clarifying the role of the advisory board in
rule setting and funding decisions.
identical

identical to the Senate version

Section 481.227 establishes criteria
for eligible projects and borrowers

identical

minor changes clarifying the language
regarding job creation and retention

Section 481.228 giving preference in
financing to likely success, Texas
residents, and projects conducted in
Texas.

identical

minor changes. Language regarding job
creation and retention is moved to
481.227

Section 481.229 enables \$45 million
in GO bonds.

identical, except for decrease in GO
authority to \$25 million and a change
in the contingent clause from HJR 70 to
HJR 51

Deletes all bond enabling language,
since identical language was included
in H.B. 362.

Adds a new Section 481.229 allowing
the Department to coordinate with the
Product Commercialization Fund created
by H.B. 362. A parallel provision is
included in 362.

HOUSE VERSIONSENATE VERSIONCONFERENCE VERSION

SECTION 6 : Small Business Incubator Fund

Section 481.242 Defines the structure and content of the fund

identical

identical

SECTION 7: INVESTMENT POOLS

Section 481.244 instructs the Department to encourage local investment pools

identical

identical

Section 481.245 enabling language for \$20 million in GO bonds

identical

deleted due to the inclusion of identical language in H.B. 362

SECTION 8: Agricultural Fund -- Enables the issuance of \$25 million in GO bonds for the Texas Agricultural fund

identical

deleted, due the passage of identical language in H.B. 1111

Section 8 in the Conf. version retains language from Sec. 7 in the House and Senate versions giving preference to likely successes, Texas residents, and Texas projects (incubator fund)

SECTION 9: Emergency Clause

identical

Section 9 in the conference version retains language from Section 8 of the House and Senate versions addressing the structure and content of the Ag. fund

SECTION 10: no provision

no provision

Section 10 in the Conference Version retains language from Section 8 of the House and Senate versions giving preference to likely successes Texas residents and Texas projects.

SECTION 11: no provision

no provision

Emergency Clause

NOTES:

1. In all cases where a change "goes out of bounds," the changes are reflected in resolutions prepared according to House and Senate rules.
2. No revised fiscal note is included in with this report, since all bonding provisions have been deleted.

CONFERENCE COMMITTEE REPORT FORM

ADOPTED

MAY 29 1989

Austin, Texas

Date

Honorable William P. Hobby
President of the Senate

William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on _____ have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

On the part of the Senate

On the part of the House

Paper clip one of these forms to each of the following:
the original and two copies to the house of origin
three copies to the other house

MAY 29 1989

Lead & filed

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.221, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.221. DEFINITIONS. In this subchapter:

(1) "Advisory board" means the Product Development Advisory Board.

(2) [~~1~~] "Executive director" means the executive director of the department or the executive director's designee.

(3) "Fund" means the product development fund.

(4) "Office" means the Office of Advanced Technology within the Texas Department of Commerce.

(5) [~~2~~] "Product" means an invention, product, device, technique, or process, without regard to whether a patent has or could be granted, that is or may be exploitable commercially. The term does not refer to pure research but includes products, devices, techniques, or processes that have advanced beyond the theoretical stage and have or are readily capable of having a commercial application.

(6) [~~3~~] "Venture financing" means a revolving loan, loan guarantee, or equity investment from the Texas product

1 development fund to a person for use in the development of new or
2 improved products.

3 SECTION 2. Section 481.222, Government Code, as added by
4 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
5 amended to read as follows:

6 Sec. 481.222. TEXAS PRODUCT DEVELOPMENT FUND; VENTURE
7 FINANCING. (a) The Texas product development fund is a revolving
8 fund in the state treasury. The fund consists of money
9 appropriated to the department, proceeds of bonds issued under this
10 subchapter, application fees, loan repayments, guarantee fees,
11 royalty receipts, dividend income, and other amounts received by
12 the state from loans, loan guarantees, and equity investments made
13 under this subchapter, other amounts received by the state for
14 loans or grants made under this subchapter, and money acquired from
15 federal grants or other sources and required by resolution of the
16 board to be deposited in the fund. The fund contains a program
17 account, an interest and sinking account, and other accounts that
18 the board authorizes to be created and maintained. Money in the
19 fund is available for use by the department under this subchapter.

20 (b) Money in the program account, minus the costs of
21 issuance of bonds under this subchapter and necessary costs of
22 administering the fund, may be used only to provide venture
23 financing to aid in the development and for the commercialization
24 of new or improved products. The department may provide venture
25 financing from the fund for the purposes of designing and
26 constructing new facilities, rehabilitating existing facilities,
27 acquiring any interest in real or personal property, and providing

1 initial working capital to pay the cost of salaries, rents,
2 supplies, inventories, mortgage payments, legal services, and
3 utilities and telephone, travel, and other incidental costs
4 normally classified as working capital according to standard
5 accounting principles. The department shall provide venture
6 financing from the fund on the terms and conditions that the
7 department determines to be reasonable, appropriate, and consistent
8 with the purposes and objectives of the fund and this subchapter
9 for the purpose of financing a new or improved product that is or
10 may be exploitable commercially. The department may provide
11 venture financing only if financing for the product being developed
12 is not otherwise available on reasonable terms.

13 (c) Before approving the provision of venture financing to a
14 person, the department shall enter into an agreement with the
15 person under which the department will obtain an appropriate
16 portion of royalties, patent rights, equitable interests, or a
17 combination of those royalties, rights, and interests from or in
18 the product or proceeds of the product for which venture financing
19 is requested. Contracts executed under this subchapter must
20 include agreements to ensure proper use of funds and the receipt of
21 royalties, patent rights, or equity interest, as appropriate.

22 SECTION 3. Section 481.224, Government Code, as added by
23 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
24 amended to read as follows:

25 Sec. 481.224. APPLICATION. (a) An application for venture
26 financing must be delivered, together with a reasonable application
27 fee prescribed by the department, to the executive director. The

application shall contain a business plan, containing such
information as required by the department, including at a minimum[7
~~who--shall-conduct-an-investigation-and-prepare-a-report-concerning~~
~~the-advisability-of-approving-the-application-and-concerning--other~~
~~factors--considered--relevant--by--the--department,---The-executive~~
~~director's-report-must-include]:~~

(1) information regarding the history and financial
condition of the applicant, including the applicant's income
statement, and information about the applicant's present markets
and market prospects and about the integrity of the applicant's
management; [and]

(2) a statement of the feasibility of the product for
which financing is requested, including the state of development of
the product and the likelihood of its commercialization; and[7]

(3) a description of attempts to obtain private
financing, including documentation verifying such efforts and a
clear description of the reasons such financing was denied.

(b) The [For-each-application,--the] executive director shall
[also] determine the following with respect to each application for
venture financing [whether]:

(1) whether the product for which financing is
requested is economically sound, and whether[7--(2)] there is a
reasonable expectation that the product will be successful;

(2) whether [(2)] the product will create or preserve
jobs and otherwise benefit the economy of the state;

(3) whether [(4)] the applicant lacks the financial
resources to complete the project, and whether[7-(5)] venture

financing is necessary because financing is unavailable in traditional capital markets or credit has been offered on terms that would preclude the success of the project; and

(4) whether [~~6~~] there is reasonable assurance that the potential revenues to be derived from the sale of the product will be sufficient to repay any venture financing approved by the department[~~7-and-(7)-with-respect-to-patents,-copyrights,-and-other-ownership--rights--relative--to--the--product,-there-is-reasonable-assurance-that-the-product-will--be--used--to--the--maximum--extent-possible-in-facilities-located-in-this-state~~].

(c) The executive director shall submit the report to the department. After considering the report, together with [and] other information that the department considers appropriate, the department shall approve or deny the application for venture financing and promptly notify the applicant of its [the] decision.

SECTION 4. Section 481.225, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.225. INFORMATION CONFIDENTIAL. Information relating to a product, and the application or use of a product, and technological and scientific information, including computer programs, developed in whole or part by an applicant for or a recipient of venture financing, is confidential and is not subject to disclosure under state law or otherwise, regardless of whether the product is patentable or capable of being registered under copyright or trademark laws, or has a potential for being sold, traded, or licensed for a fee; however, nothing in this subchapter

1 shall prevent or restrict the Office of Advanced Technology or the
2 advisory board from obtaining information relating to a product or
3 process from an applicant or recipient of a loan under this
4 subchapter.

5 SECTION 5. Subchapter Q, Chapter 481, Government Code, as
6 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
7 1989, is amended by adding Sections 481.226, 481.227, 481.228, and
8 481.229 to read as follows:

9 Sec. 481.226. ADVISORY BOARD. (a) The Product Development
10 Advisory Board is composed of:

11 (1) one representative of the Texas Higher Education
12 Coordinating Board selected by the Texas Higher Education
13 Coordinating Board;

14 (2) two persons appointed by the governor;

15 (3) two persons appointed by the lieutenant governor;

16 and

17 (4) two persons appointed by the speaker of the house
18 of representatives.

19 (b) In appointing members of the advisory board, the
20 governor, lieutenant governor, and speaker of the house shall
21 appoint persons having significant business leadership experience
22 with emerging technologies, particularly experience with the
23 transfer of research results into commercial application.

24 (c) Members of the advisory board serve two-year staggered
25 terms with the terms of four members expiring February 1 of each
26 odd-numbered year and the terms of three members expiring February
27 1 of each even-numbered year.

1 (d) The governor shall appoint the advisory board's chairman
2 from among its members.

3 (e) On recommendation of the advisory board, the
4 department shall adopt rules establishing limits on the amount of
5 each loan and otherwise governing the terms and conditions of the
6 loans, specifically including requirements for appropriate
7 security or collateral and the rights and remedies of the
8 department in the event of a default on the loan. Such rules
9 shall include a requirement that borrowers shall report to the
10 advisory board on the use of money distributed through this fund.

11 Sec. 481.227. ELIGIBLE PROJECTS AND BORROWERS. (a) A loan
12 may be made under this subchapter only to finance a project
13 approved by the advisory board and the department.

14 (b) In determining eligible projects, the advisory board
15 and the department shall give special preference to projects that
16 have the greatest likelihood of commercial success and have the
17 greatest effect on job creation and retention in the state,
18 specifically including but not limited to projects in the areas
19 of biotechnology, biomedicine, energy, materials science,
20 microelectronics, aerospace, marine science, aquaculture,
21 telecommunications, manufacturing science, and other priority
22 research areas as provided in Section 143.003 of the Education
23 Code. The priority research area of agriculture will be funded
24 according to the provisions of Subchapter D, Chapter 58, of the
25 Agriculture Code. The advisory board and the department further
26 shall give consideration to: (1) grantees under the small
27 business innovation research program established under 15 U.S.C.

1 Section 638; (2) Texas companies formed to commercialize
2 research funded at least in part with state funds; and (3) Texas
3 companies receiving assistance from designated state small
4 business development centers.

5 Sec. 481.228. CONSIDERATION IN FINANCING. In determining
6 whether to provide financing under this subchapter, the advisory
7 board and the department shall give preference to applicants who
8 are Texas residents doing business in the state and performing
9 financed activities predominantly in the state, and then to
10 applicants who can demonstrate that the financed activities will
11 take place predominantly in this state.

12 Sec. 481.229. PROGRAM COORDINATION. The department may
13 coordinate the administration and funding of the programs
14 established pursuant to Subchapter U and this subchapter.

15 SECTION 6. Section 481.242, Government Code, as added by
16 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
17 amended to read as follows:

18 Sec. 481.242. SMALL BUSINESS INCUBATOR FUND. (a) The small
19 business incubator fund is a revolving fund in the state treasury.

20 (b) Money appropriated to the department, proceeds of bonds
21 issued under this subchapter, application fees, guarantee fees,
22 royalty receipts, dividend income, loan repayments, and other
23 amounts received by the state for loans, loan guarantees, equity in
24 investments, or grants made under this subchapter, and any other
25 money received by the department under this subchapter and required
26 by resolution of the board to be deposited in the fund, including
27 federal funds and the proceeds of any investment pools operated by
28 the treasurer shall be deposited to the credit of the fund.

1 SECTION 7. Subchapter R, Chapter 481, Government Code, as
2 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
3 1989, is amended by adding Section 481.245:
4 to read as follows:

5 Sec. 481.245. INVESTMENT POOLS. The department shall
6 develop programs encouraging the creation of local investment pools
7 to assist with the financing of businesses emerging from the
8 incubator.

9 SECTION 8. Subchapter R, Chapter 481, Government Code, as
10 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
11 1989, is amended by adding Section 481.246 to read as follows:

12 Sec. 481.246. CONSIDERATIONS IN FINANCING. In determining
13 whether to provide financing under this subchapter, the board shall
14 consider the likelihood of success of the applicant and the effect
15 of the financing on job creation and retention in the state. The
16 board shall give preference to applicants who are Texas residents
17 doing business in the state, and then to applicants who can
18 demonstrate that the financed activities will take place
19 predominantly in this state.

20 SECTION 9. Chapter 58, Agriculture Code, is amended by
21 adding Section 58.032(f) to read as follows:

22 (f) The department may receive, and shall deposit in the
23 Texas agricultural fund, appropriations, grants, donations, earned
24 federal funds, and the proceeds of any investment pools operated by
25 the treasurer.

1 SECTION 10. Chapter 58, Agriculture Code, is amended by
2 adding Section 58.040 to read as follows:

3 Sec. 58.040. CONSIDERATIONS IN FINANCING. In determining
4 whether to provide financing under this chapter, the board shall
5 consider the likelihood of success of the applicant and the effect
6 of the financing on job creation and retention in the state. The
7 board shall give preference to applicants who are Texas residents
8 doing business in the state, and then to applicants who can
9 demonstrate that the financed activities will take place
10 predominantly in this state.

11 SECTION 11. The importance of this legislation and the
12 crowded condition of the calendars in both houses create an
13 emergency and an imperative public necessity that the
14 constitutional rule requiring bills to be read on three several
15 days in each house be suspended, and this rule is hereby suspended.

HOUSE BILL 1860
SIDE BY SIDE COMPARISON

| HOUSE VERSION | SENATE VERSION | CONFERENCE VERSION |
|--|---|--|
| SECTION 1 : DEFINITIONS identical in all three versions | identical in all three versions | identical in all three versions |
| SECTION 2 : Defines Fund contents and structure identical in all three versions | identical in all three versions | identical in all three versions |
| SECTION 3: APPLICATION describes specific requirements for applications for assistance under the product development fund. | identical in all three versions | identical in all three versions |
| SECTION 4: Information Confidential Identical in all three versions | identical in all three versions | identical in all three versions |
| SECTION 5: Product Development Fund Section 481.226 creates a six member advisory board Section 481.227 establishes criteria for eligible projects and borrowers Section 481.228 giving preference in financing to likely success, Texas residents, and projects conducted in Texas. Section 481.229 enables \$45 million in GO bonds. | identical, except for small wording changes clarifying the role of the advisory board in rule setting and funding decisions. identical identical identical, except for decrease in GO authority to \$25 million and a change in the contingent clause from HJR 70 to HJR 51 | identical to the Senate version minor changes clarifying the language regarding job creation and retention minor changes. Language regarding job creation and retention is moved to 481.227 Deletes all bond enabling language, since identical language was included in H.B. 362. Adds a new Section 481.229 allowing the Department to coordinate with the Product Commercialization Fund created by H.B. 362. A parallel provision is included in 362. |

HOUSE VERSION**SENATE VERSION****CONFERENCE VERSION****SECTION 6 : Small Business Incubator Fund**

Section 481.242 Defines the structure
and content of the fund

identical

identical

SECTION 7: INVESTMENT POOLS

Section 481.244 instructs the
Department to encourage local
investment pools

identical

identical

Section 481.245 enabling language
for \$20 million in GO bonds

identical

deleted due to the inclusion of
identical language in H.B. 362

SECTION 8: Agricultural Fund -- Enables the
issuance of \$25 million in GO bonds
for the Texas Agricultural fund

identical

deleted, due the passage of identical
language in H.B. 1111

Section 8 in the Conf. version retains
language from Sec. 7 in the House and
Senate versions giving preference to
likely successes, Texas residents, and
Texas projects (incubator fund)

SECTION 9: Emergency Clause

identical

Section 9 in the conference version
retains language from Section 8 of the
House and Senate versions addressing
the structure and content of the Ag. fund

SECTION 10: no provision

no provision

Section 10 in the Conference Version retains
language from Section 8 of the House and Senate
versions giving preference to likely successes
Texas residents and Texas projects.

SECTION 11: no provision

no provision

Emergency Clause

NOTES:

1. In all cases where a change "goes out of bounds," the changes are reflected in resolutions prepared according to House and Senate rules.
2. No revised fiscal note is included in with this report, since all bonding provisions have been deleted.

F
ENROLLED

H.B. No. 1860

AN ACT

relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.221, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.221. DEFINITIONS. In this subchapter:

(1) "Advisory board" means the Product Development Advisory Board.

(2) [~~1~~] "Executive director" means the executive director of the department or the executive director's designee.

(3) "Fund" means the product development fund.

(4) "Office" means the Office of Advanced Technology within the Texas Department of Commerce.

(5) [~~2~~] "Product" means an invention, product, device, technique, or process, without regard to whether a patent has or could be granted, that is or may be exploitable commercially. The term does not refer to pure research but includes products, devices, techniques, or processes that have advanced beyond the theoretical stage and have or are readily capable of having a commercial [~~practical~~] application.

(6) [~~3~~] "Venture financing" means a revolving loan, loan guarantee, or equity investment from the Texas product

1 development fund to a person for use in the development of new or
2 improved products.

3 SECTION 2. Section 481.222, Government Code, as added by
4 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
5 amended to read as follows:

6 Sec. 481.222. TEXAS PRODUCT DEVELOPMENT FUND; VENTURE
7 FINANCING. (a) The Texas product development fund is a revolving
8 fund in the state treasury. The fund consists of money
9 appropriated to the department, proceeds of bonds issued under this
10 subchapter, application fees, loan repayments, guarantee fees,
11 royalty receipts, dividend income, and other amounts received by
12 the state from loans, loan guarantees, and equity investments made
13 under this subchapter, other amounts received by the state for
14 loans or grants made under this subchapter, and money acquired from
15 federal grants or other sources and required by resolution of the
16 board to be deposited in the fund. The fund contains a program
17 account, an interest and sinking account, and other accounts that
18 the board authorizes to be created and maintained. Money in the
19 fund is available for use by the department under this subchapter.

20 (b) Money in the program account, minus the costs of
21 issuance of bonds under this subchapter and necessary costs of
22 administering the fund, may be used only to provide venture
23 financing to aid in the development and for the commercialization
24 of new or improved products. The department may provide venture
25 financing from the fund for the purposes of designing and
26 constructing new facilities, rehabilitating existing facilities,
27 acquiring any interest in real or personal property, and providing

1 initial working capital to pay the cost of salaries, rents,
 2 supplies, inventories, mortgage payments, legal services, and
 3 utilities and telephone, travel, and other incidental costs
 4 normally classified as working capital according to standard
 5 accounting principles. The department shall provide venture
 6 financing from the fund on the terms and conditions that the
 7 department determines to be reasonable, appropriate, and consistent
 8 with the purposes and objectives of the fund and this subchapter
 9 for the purpose of financing a new or improved product that is or
 10 may be exploitable commercially. The department may provide
 11 venture financing only if financing for the product being developed
 12 is not otherwise available on reasonable terms.

13 (c) Before approving the provision of venture financing to a
 14 person, the department shall enter into an agreement with the
 15 person under which the department will obtain an appropriate
 16 portion of royalties, patent rights, equitable interests, or a
 17 combination of those royalties, rights, and interests from or in
 18 the product or proceeds of the product for which venture financing
 19 is requested. Contracts executed under this subchapter must
 20 include agreements to ensure proper use of funds and the receipt of
 21 royalties, patent rights, or equity interest, as appropriate.

22 SECTION 3. Section 481.224, Government Code, as added by
 23 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
 24 amended to read as follows:

25 Sec. 481.224. APPLICATION. (a) An application for venture
 26 financing must be delivered, together with a reasonable application
 27 fee prescribed by the department, to the executive director. The

1 application shall contain a business plan, containing such
2 information as required by the department, including at a minimum[7
3 ~~who--shall-conduct-an-investigation-and-prepare-a-report-concerning~~
4 ~~the-advisability-of-approving-the-application-and-concerning--other~~
5 ~~factors--considered--relevant--by--the--department.---The-executive~~
6 ~~director's-report-must-include]:~~

7 (1) information regarding the history and financial
8 condition of the applicant, including the applicant's income
9 statement, and information about the applicant's present markets
10 and market prospects and about the integrity of the applicant's
11 management; [and]

12 (2) a statement of the feasibility of the product for
13 which financing is requested, including the state of development of
14 the product and the likelihood of its commercialization; and

15 (3) a description of attempts to obtain private
16 financing, including documentation verifying such efforts and a
17 clear description of the reasons such financing was denied.

18 (b) The [For-each-application, -the] executive director shall
19 [also] determine the following with respect to each application for
20 venture financing [whether]:

21 (1) whether the product for which financing is
22 requested is economically sound, and whether[7

23 ~~[2}]~~ there is a reasonable expectation that the
24 product will be successful;

25 (2) whether ~~[3}]~~ the product will create or preserve
26 jobs and otherwise benefit the economy of the state;

27 (3) whether ~~[4}]~~ the applicant lacks the financial

resources to complete the project, and whether[7

[5] venture financing is necessary because financing is unavailable in traditional capital markets or credit has been offered on terms that would preclude the success of the project; and

(4) whether [6] there is reasonable assurance that the potential revenues to be derived from the sale of the product will be sufficient to repay any venture financing approved by the department[7-and

[7]--with--respect--to--patents,--copyrights,--and--other ownership-rights-relative--to--the--product,--there--is--reasonable assurance--that--the--product--will--be--used--to--the--maximum--extent possible-in-facilities-located-in-this-state].

(c) The executive director shall submit the report to the department. After considering the report, together with [and] other information that the department considers appropriate, the department shall approve or deny the application for venture financing and promptly notify the applicant of its [the] decision.

SECTION 4. Section 481.225, Government Code, as added by S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 481.225. INFORMATION CONFIDENTIAL. Information relating to a product, and the application or use of a product, and technological and scientific information, including computer programs, developed in whole or part by an applicant for or a recipient of venture financing, is confidential and is not subject to disclosure under state law or otherwise, regardless of whether

1 the product is patentable or capable of being registered under
2 copyright or trademark laws, or has a potential for being sold,
3 traded, or licensed for a fee; however, nothing in this subchapter
4 shall prevent or restrict the Office of Advanced Technology or the
5 advisory board from obtaining information relating to a product or
6 process from an applicant or recipient of a loan under this
7 subchapter.

8 SECTION 5. Subchapter Q, Chapter 481, Government Code, as
9 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
10 1989, is amended by adding Sections 481.226, 481.227, 481.228, and
11 481.229 to read as follows:

12 Sec. 481.226. ADVISORY BOARD. (a) The Product Development
13 Advisory Board is composed of:

14 (1) one representative of the Texas Higher Education
15 Coordinating Board selected by the Texas Higher Education
16 Coordinating Board;

17 (2) two persons appointed by the governor;

18 (3) two persons appointed by the lieutenant governor;

19 and

20 (4) two persons appointed by the speaker of the house
21 of representatives.

22 (b) In appointing members of the advisory board, the
23 governor, lieutenant governor, and speaker of the house shall
24 appoint persons having significant business leadership experience
25 with emerging technologies, particularly experience with the
26 transfer of research results into commercial application.

27 (c) Members of the advisory board serve two-year staggered

1 terms with the terms of four members expiring February 1 of each
2 odd-numbered year and the terms of three members expiring February
3 1 of each even-numbered year.

4 (d) The governor shall appoint the advisory board's chairman
5 from among its members.

6 (e) On recommendation of the advisory board, the department
7 shall adopt rules establishing limits on the amount of each loan
8 and otherwise governing the terms and conditions of the loans,
9 specifically including requirements for appropriate security or
10 collateral and the rights and remedies of the department in the
11 event of a default on the loan. Such rules shall include a
12 requirement that borrowers shall report to the advisory board on
13 the use of money distributed through this fund.

14 Sec. 481.227. ELIGIBLE PROJECTS AND BORROWERS. (a) A loan
15 may be made under this subchapter only to finance a project
16 approved by the advisory board and department.

17 (b) In determining eligible projects, the advisory board and
18 the department shall give special preference to projects that have
19 the greatest likelihood of commercial success and have the greatest
20 effect on job creation and retention in the state, specifically
21 including but not limited to projects in the areas of
22 biotechnology, biomedicine, energy, materials science,
23 microelectronics, aerospace, marine science, aquaculture,
24 telecommunications, manufacturing science, and other priority
25 research areas as provided in Section 143.003, Education Code. The
26 priority research area of agriculture will be funded according to
27 the provisions of Subchapter D, Chapter 58, Agriculture Code. The

1 advisory board and the department further shall give consideration
2 to:

3 (1) grantees under the small business innovation
4 research program established under 15 U.S.C. Section 638;

5 (2) Texas companies formed to commercialize research
6 funded at least in part with state funds; and

7 (3) Texas companies receiving assistance from
8 designated state small business development centers.

9 Sec. 481.228. CONSIDERATION IN FINANCING. In determining
10 whether to provide financing under this subchapter, the advisory
11 board and the department shall give preference to applicants who
12 are Texas residents doing business in the state and performing
13 financed activities predominantly in the state, and then to
14 applicants who can demonstrate that the financed activities will
15 take place predominantly in this state.

16 Sec. 481.229. PROGRAM COORDINATION. The department may
17 coordinate the administration and funding of the programs
18 established pursuant to Subchapter U and this subchapter.

19 SECTION 6. Section 481.242, Government Code, as added by
20 S.B. 223, Acts of the 71st Legislature, Regular Session, 1989, is
21 amended to read as follows:

22 Sec. 481.242. SMALL BUSINESS INCUBATOR FUND. (a) The small
23 business incubator fund is a revolving fund in the state treasury.

24 (b) Money appropriated to the department, proceeds of bonds
25 issued under this subchapter, application fees, guarantee fees,
26 royalty receipts, dividend income, loan repayments, and other
27 amounts received by the state for loans, loan guarantees, equity in

1 investments, or grants made under this subchapter, and any other
2 money received by the department under this subchapter and required
3 by resolution of the board to be deposited in the fund, including
4 federal funds and the proceeds of any investment pools operated by
5 the treasurer shall be deposited to the credit of the fund.
6 Appropriated money in the fund may be applied and reapplied to the
7 purposes of this subchapter.

8 SECTION 7. Subchapter R, Chapter 481, Government Code, as
9 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
10 1989, is amended by adding Section 481.245 to read as follows:

11 Sec. 481.245. INVESTMENT POOLS. The department shall
12 develop programs encouraging the creation of local investment pools
13 to assist with the financing of businesses emerging from the
14 incubator.

15 SECTION 8. Subchapter R, Chapter 481, Government Code, as
16 added by S.B. 223, Acts of the 71st Legislature, Regular Session,
17 1989, is amended by adding Section 481.246 to read as follows:

18 Sec. 481.246. CONSIDERATIONS IN FINANCING. In determining
19 whether to provide financing under this subchapter, the board shall
20 consider the likelihood of success of the applicant and the effect
21 of the financing on job creation and retention in the state. The
22 board shall give preference to applicants who are Texas residents
23 doing business in the state, and then to applicants who can
24 demonstrate that the financed activities will take place
25 predominantly in this state.

26 SECTION 9. Section 58.032, Agriculture Code, is amended by
27 adding (f) to read as follows:

1 (f) The department may receive, and shall deposit in the
2 Texas agricultural fund, appropriations, grants, donations, earned
3 federal funds, and the proceeds of any investment pools operated by
4 the treasurer.

5 SECTION 10. Chapter 58, Agriculture Code, is amended by
6 adding Section 58.040 to read as follows:

7 Sec. 58.040. CONSIDERATIONS IN FINANCING. In determining
8 whether to provide financing under this chapter, the board shall
9 consider the likelihood of success of the applicant and the effect
10 of the financing on job creation and retention in the state. The
11 board shall give preference to applicants who are Texas residents
12 doing business in the state, and then to applicants who can
13 demonstrate that the financed activities will take place
14 predominantly in this state.

15 SECTION 11. The importance of this legislation and the
16 crowded condition of the calendars in both houses create an
17 emergency and an imperative public necessity that the
18 constitutional rule requiring bills to be read on three several
19 days in each house be suspended, and this rule is hereby suspended.

H.B. No. 1860

President of the Senate

Speaker of the House

I certify that H.B. No. 1860 was passed by the House on May 18, 1989, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 1860 on May 29, 1989, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1860 on May 29, 1989, by a non-record vote.

Chief Clerk of the House

H.B. No. 1860

I certify that H.B. No. 1860 was passed by the Senate, with amendments, on May 27, 1989, by a viva-voce vote; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1860 on May 29, 1989, by a viva-voce vote.

Secretary of the Senate

APPROVED: _____
Date

Governor

President of the Senate

Speaker of the House

I certify that H.B. No. 1860⁽¹⁾ was passed by the House on

May 18⁽²⁾, 1989, by the following vote;

Yeas ⁽³⁾

Nays ⁽⁴⁾

that the House refused to concur in Senate amendments to H.B. No. 1860 on May 29⁽⁵⁾, 1989, and requested the

appointment of a conference committee to consider the differences

between the two houses; and that the House adopted the conference

committee report on H.B. No. 1860 on May 29⁽⁶⁾, 1989, by

anon record
the following vote;

Yeas ⁽⁷⁾

Nays ⁽⁸⁾

Chief Clerk of the House

**** Preparation: 'A;CT42;

I certify that H.B. No. 1860⁽¹⁾ was passed by the Senate, with

amendments, on May 27⁽²⁾, 1989, by the following

vote; Yeas ⁽³⁾

Nays ⁽⁴⁾

at the request of the House, the Senate appointed a conference

committee to consider the differences between the two houses;

and that the Senate adopted the conference committee report on

H.B. No. 1860 on May 29⁽⁵⁾, 1989, by the following vote;

Yeas ⁽⁶⁾

Nays ⁽⁷⁾

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: 'A;CT43

H. B. No.

1860

By

Colbert

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of bonds and for state financing of the development and production of Texas products and businesses.

MAR 6 1989

1. Filed with the Chief Clerk.

MAR 16 1989

2. Read first time and Referred to Committee on

MAR 20 1989

~~Re-referred to Committee on SCIENCE AND TECHNOLOGY~~
 Re-referred to Committee on SCIENCE AND TECHNOLOGY

APR 25 1989

3. Reported favorably ^(as amended) and sent to Printer at 6:20 pm
^(as substituted) MAY 5 1989

MAY 8 1989

4. Printed and distributed at 11:10 am

MAY 8 1989

5. Sent to Committee on Calendars at 3:23 pm

MAY 17 1989

6. Read second time as Subs. ^(amended); passed to third reading ^(failed) by (Non-Record Vote)
^{(Record Vote of _____ yeas, _____ nays, _____ present, not voting).}

7. Motion to reconsider and table the vote by which H.B. _____ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas, _____ nays, and _____ present, not voting.

MAY 18 1989

9. Read third time ^(amended); finally passed ^(failed) by (Non-Record Vote) ^{(Record Vote of _____ yeas, _____ nays, _____ present, not voting).}

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. _____ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 18 1989

12. Ordered Engrossed at 4:37 pm

MAY 19 1989

13. Engrossed.

MAY 19 1989

14. Returned to Chief Clerk at 3:17 am

MAY 19 1989

15. Sent to Senate.

Betty Murray
 Chief Clerk of the House

MAY 19 1989

16. Received from the House

MAY 20 1989

17. Read, referred to Committee on STATE AFFAIRS

MAY 25 1989

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

MAY 27 1989

21. Regular order of business suspended by

^(a viva voce vote)
28 yeas, 1 nays.)

89 MAY 19 AM 3:17
HOUSE OF REPRESENTATIVES

22. To permit consideration, reading and passage, Senate and Constitutional 89 MAY 28 AM 12:41
suspended by vote of _____ yeas, _____ nays.

MAY 27 1989

23. Read second time amended passed to third reading by:
(a viva voce vote)
(_____ yeas, _____ nays.)

MAY 27 1989

24. Caption ordered amended to conform to body of bill.

MAY 27 1989

25. Senate and Constitutional 3-Day Rules suspended by vote of 29 yeas,
2 nays to place bill on third reading and final passage.

MAY 27 1989

26. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION:

OTHER ACTION:

Betty King

Secretary of the Senate

5-27-89

27. Returned to the House.

MAY 27 1989

28. Received from the Senate (with amendments.)
(as substituted.)

MAY 29 1989

29. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record)
(Substitute) Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
(not voting).)

MAY 29 1989

30. Conference Committee Ordered.

MAY 29 1989

31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 29 1989

32. Ordered Enrolled at 10:39 pm

HOUSE OF REPRESENTATIVES
89 MAY 18 AM 4:59

0981